

DEPARTMENT OF ADMINISTRATION

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Volunteer Firefighters' Compensation Act

Rule 2.43.5001 Basic Unit of Service

2.43.5002 Failure to File Required Reports

2.43.5003 Membership Cards

2.43.5004 Effective Date for Pension Benefit Adjustments

2.43.5005 Application Process for VFCA Disability Benefits

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2.43.5007 Payments for Medical Expenses Resulting From Duty -
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2.43.5008 Payments for Funeral Expenses Resulting From Duty –
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PUBLIC EMPLOYEES' RETIREMENT BOARD

Subchapter 51

Deferred Compensation (457) Plan

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Subchapter 1

Organizational Rule

2.43.101 ORGANIZATIONAL RULE (1) The organizational rule of the Public Employees' Retirement Board is set forth in ARM 2.1.101 and is herein adopted and incorporated by this reference. (History: 2-4-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72.)

Subchapter 2

Procedural Rules

2.43.201 MODEL PROCEDURAL RULES (TRANSFERRED) (History: 2-4-201, 2-4-307, 19-2-403, MCA; IMP, 2-4-201, 19-2-403, MCA; Eff. 12/31/72; AMD, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2003 MAR p. 972, Eff. 5/9/03; TRANS, to ARM 2.43.1401, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.202 APPLICABILITY OF RULES (TRANSFERRED) (History: 2-4-201, 19-2-403, MCA; IMP, 19-2-403, MCA; Eff. 12/31/72; AMD, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2003 p. 972, Eff. 5/9/03; TRANS, to ARM 2.43.1402, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.203 REVIEW OF ADMINISTRATIVE DECISION (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-403, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1995 MAR p. 205, Eff. 2/10/95; AMD, 1997 MAR p. 1660, Eff. 9/23/97; AMD, 2003 MAR p. 972, Eff. 5/9/03; AMD & TRANS, to ARM 2.43.1501, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.204 CONTESTED CASE PROCEDURES (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-403, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1994 MAR p. 2711, Eff. 10/14/94; AMD, 2003 MAR p. 972, Eff. 5/9/03; AMD & TRANS, to ARM 2.43.1502, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.205 REGULATIONS APPLICABLE TO CONTESTED CASES (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-403, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2003 MAR p. 972, Eff. 5/9/03; AMD & TRANS, to ARM 2.43.1503, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 3

General Rules

2.43.301 RETIREMENT SYSTEMS COVERED (TRANSFERRED) (History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, to ARM 2.43.1301, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.302 DEFINITIONS (TRANSFERRED) (History: 19-2-403, MCA; IMP, Title 19, Ch. 2, 3, 5, 6, 7, 8, 9, 13, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1987 MAR p. 1338, Eff. 8/14/87; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1993 MAR p. 2762, Eff. 11/25/93; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1998 MAR p. 920, Eff. 4/17/98; AMD, 2001 MAR p. 1834, Eff. 9/21/01; AMD & TRANS, to ARM 2.43.1302, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.303 REQUEST FOR RELEASE OF INFORMATION BY MEMBERS (TRANSFERRED) (History: 19-2-403, 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, Title 19, Ch. 2, 3, 5, 6, 7, 8, 9, 13, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD & TRANS, to ARM 2.43.1405, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.304 ACTUARIAL RATES AND ASSUMPTIONS (TRANSFERRED) (History: 19-2-403, 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-3-305, 19-5-201, 19-6-202, 19-7-201, 19-8-202, 19-9-504, 19-13-504, 19-17-107, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1998 MAR p. 920, Eff. 4/17/98; AMD, 2008 MAR p. 1018, Eff. 5/23/08; TRANS, to ARM 2.43.1306, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.305 MAILING INFORMATION ABOUT NONPROFIT ORGANIZATIONS (REPEALED) (History: 19-2-403, MCA; IMP, 2-6-109, MCA; NEW, 1994 MAR p. 2515, Eff. 9/9/94; REP, 1994 MAR p. 3181, Eff. 12/23/94.)

2.43.306 DOCUMENTS ACCEPTABLE FOR MAILING – NONPROFIT ORGANIZATIONS (REPEALED) (History: 19-2-403, MCA; IMP, 2-6-109, MCA; NEW, 1994 MAR p. 2515, Eff. 9/9/94; REP, 1994 MAR p. 3181, Eff. 12/23/94.)

2.43.307 BENEFIT RECIPIENTS' RIGHTS TO BE EXCLUDED FROM MAILINGS OF INFORMATIONAL MATERIALS ABOUT NONPROFIT ORGANIZATIONS (REPEALED) (History: 19-2-403, MCA; IMP, 2-6-109, MCA; NEW, 1994 MAR p. 2515, Eff. 9/9/94; REP, 1994 MAR p. 3181, Eff. 12/23/94.)

2.43.308 MAILING FOR NONPROFIT RETIREE GROUPS (TRANSFERRED) (History: 19-2-403, MCA; IMP, 2-6-109, MCA; NEW, 1995 MAR p. 1318, Eff. 7/14/95; AMD, 1998 MAR p. 920, Eff. 4/17/98; AMD & TRANS, to ARM 2.43.1406, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.309 ACCEPTABLE MATERIALS – NONPROFIT MAILING

(TRANSFERRED) (History: 19-2-403, MCA; IMP, 2-6-109, MCA; NEW, 1995 MAR p. 1318, Eff. 7/14/95; AMD, 1998 MAR p. 920, Eff. 4/17/98; AMD & TRANS, to ARM 2.43.1407, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.310 RIGHT TO BE EXCLUDED – NONPROFIT ORGANIZATIONS

(TRANSFERRED) (History: 19-2-403, MCA; IMP, 2-6-109, MCA; NEW, 1995 MAR p. 1318, Eff. 7/14/95; AMD & TRANS, to ARM 2.43.1408, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 4

Membership and Service Credits

2.43.401 AUTHORITY TO CONTRACT (REPEALED) (History: 19-3-304, MCA; IMP, Title 19, Ch. 3, part 2, MCA; Eff. 12/31/72; REP, 1986 MAR p. 1454, Eff. 8/29/86.)

2.43.402 MEMBERSHIP CARDS (TRANSFERRED) (History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-3-401, 19-5-602, 19-6-602, 19-7-602, 19-8-702, 19-9-912, 19-13-903, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, to ARM 2.43.2104, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.403 OPTIONAL MEMBERSHIP (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-903, 19-3-412, 19-13-301, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD, 2001 MAR p. 1834, Eff. 9/21/01; AMD & TRANS, to ARM 2.43.2102, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.404 REQUIRED EMPLOYER REPORTS (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-2-506, 19-3-315, 19-3-316, 19-3-412, 19-3-1106, 19-3-2104, 19-7-1101, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2003 MAR p. 1186, Eff. 6/13/03; AMD, 2003 MAR p. 1981, Eff. 9/12/03; AMD & TRANS, to ARM 2.43.2114, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.405 MEMBERSHIP (TRANSFERRED) (History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, Title 19, Ch. 3, part 4, 5, Ch. 5, part 3, Ch. 6, part 3, Ch. 7, part 3, Ch. 8, part 3, Ch. 9, part 4, 6, Ch. 13, part 3, 4, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, to ARM 2.43.2101, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.406 BASIC PERIOD OF SERVICE (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-701, 19-3-904, 19-5-502, 19-6-502, 19-7-503, 19-8-603, 19-9-804, 19-13-704, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2001 MAR p. 2219, Eff. 11/9/01; AMD & TRANS, to ARM 2.43.2105, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.407 NO DUPLICATION OF CREDITS (TRANSFERRED) (History: 19-3-304, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-3-508, 19-6-302, 19-7-307, 19-8-305, 19-9-401, 19-13-401, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, to ARM 2.43.2106, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.408 CALCULATION OF SERVICE CREDIT ON TERMINATION OF EMPLOYMENT (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-3-108, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD, 2001 MAR p. 1834, Eff. 9/30/01; AMD & TRANS, to ARM 2.43.2109, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.409 IMPROPER CREDIT (REPEALED) (History: 19-2-403, 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-2-903, 19-3-1403, 19-5-703, 19-6-704, 19-7-704, 19-8-804, 19-9-1003, 19-13-1002, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1999 MAR p. 1504, Eff. 7/2/99; REP, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.410 PROOF OF SERVICE (TRANSFERRED) (History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, Title 19, Ch. 3, part 3, Ch. 6, part 3, Ch. 7, part 3, Ch. 8, part 3, Ch. 9, part 4, Ch. 13, part 4, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, to ARM 2.43.2302, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.411 NATIONAL GUARD MEMBERSHIP – APPLICATION (REPEALED) (History: 19-2-403, 19-3-304, MCA; IMP, 19-3-402, MCA; NEW, 1979 MAR p. 4, Eff. 1/12/79; AMD, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1996 MAR p. 408, Eff. 2/9/96.)

2.43.412 NATIONAL GUARD MEMBERSHIP – CREDITABLE SERVICE (REPEALED) (History: 19-2-403, 19-3-304, MCA; IMP, 19-3-402, Title 19, Ch. 3, part 5, MCA; NEW, 1979 MAR p. 4, Eff. 1/12/79; AMD, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1996 MAR p. 408, Eff. 2/9/96.)

2.43.413 NATIONAL GUARD MEMBERSHIP – PRIOR CREDITABLE SERVICE (REPEALED) (History: 19-2-403, 19-3-304, MCA; IMP, 19-3-402, Title 19, Ch. 3, part 5, MCA; NEW, 1979 MAR p. 4, Eff. 1/12/79; AMD, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1996 MAR p. 408, Eff. 2/9/96.)

2.43.414 NATIONAL GUARD MEMBERSHIP – REPORTING (REPEALED) (History: 19-2-403, 19-3-304, MCA; IMP, 19-3-402, MCA; NEW, 1979 MAR p. 4, Eff. 1/12/79; AMD, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1996 MAR p. 408, Eff. 2/9/96.)

2.43.415 NATIONAL GUARD MEMBERSHIP – TERMINATION AND RETIREMENT (REPEALED) (History: 19-2-403, 19-3-304, MCA; IMP, 19-3-402, 19-3-406, 19-3-703, 19-3-901, MCA; NEW, 1979 MAR p. 4, Eff. 1/12/79; REP, 1996 MAR p. 408, Eff. 2/9/96.)

2.43.416 SCHOOL TERM AS SERVICE YEAR (REPEALED) (History: 19-3-304, MCA; IMP, 19-3-401(3), MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.417 SEASONAL EMPLOYEES (REPEALED) (History: 19-3-304, MCA; IMP, 19-3-401, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.418 ELECTED OFFICIALS (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-701, 19-2-702, 19-3-412, 19-3-1106, 19-5-301, 19-7-301, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1993 MAR p. 1199, Eff. 7/1/93; AMD, 1995 MAR p. 1319, Eff. 7/14/95; AMD, 1999 MAR p. 1504, Eff. 7/2/99, AMD, 2003 MAR p. 1981, Eff. 9/12/03; AMD & TRANS, to ARM 2.43.3401, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.419 JOB SHARING (REPEALED) (History: 19-2-403, 19-3-304, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, Title 19, Ch. 3, part 3, Ch. 6, part 3, Ch. 7, part 3, Ch. 8, part 3, Ch. 9, part 4, Ch. 13, part 4, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1996 MAR p. 408, Eff. 2/9/96.)

2.43.420 REQUALIFICATION OF SERVICE (TRANSFERRED) (History: 19-3-304, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-3-509, 19-3-511, 19-3-605, 19-6-305, 19-7-309, 19-8-306, 19-9-405, 19-9-603, 19-13-404, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD & TRANS, to ARM 2.43.2317, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.421 CREDIT FOR SERVICE IN THE UNIFORMED SERVICES (TRANSFERRED) (History: 19-3-403, MCA; IMP, 19-2-707, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2004 MAR p. 561, Eff. 3/12/04; AMD & TRANS, to ARM 2.43.2315, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.422 MOST RECENT SERVICE PURCHASED FIRST (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-715, 19-3-503, 19-3-504, 19-3-505, 19-3-510, 19-3-512, 19-3-513, 19-3-515, 19-5-409, 19-6-801, 19-6-803, 19-6-804, 19-6-810, 19-7-803, 19-7-804, 19-7-810, 19-8-901, 19-8-903, 19-8-904, 19-8-905, 19-9-403, 19-9-411, 19-13-403, 19-13-405, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1982, Eff. 9/12/03; AMD & TRANS, to ARM 2.43.2308, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.423 PURCHASE OF OTHER TYPES OF SERVICE (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-715, 19-3-503, 19-3-505, 19-3-510, 19-3-512, 19-3-515, 19-6-801, 19-6-803, 19-7-803, 19-8-901, 19-8-903, 19-9-403, 19-13-403, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 2003 MAR p. 1982, Eff. 9/12/03; AMD & TRANS, to ARM 2.43.2303, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.424 SERVICE CREDIT FOR PERIOD(S) OF DISABILITY (TRANSFERRED) (History: 19-3-304, MCA; IMP, 19-3-504, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, to ARM 2.43.2323, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.425 INCOMPLETE PAYMENTS (REPEALED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-2-602, 19-2-704, Title 19, Ch. 3, part 5, 19-3-2115, 19-5-409, Title 19, Ch. 6, part 8, Ch. 7, part 8, Ch. 8, part 9, Ch. 9, part 4, Ch. 13, part 4, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD, 2002 MAR p. 1884, Eff. 7/12/02; REP, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.426 PART-PAID FIREFIGHTERS' SERVICE (TRANSFERRED) (History: 19-13-202, MCA; IMP, Title 19, Ch. 13, part 4, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, to ARM 2.43.4807, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.427 REINSTATEMENT – CREDIT FOR LOST TIME (TRANSFERRED) (History: 19-2-403, 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, Title 19, Ch. 3, part 3, Ch. 5, part 3, Ch. 6, part 3, Ch. 7, part 3, Ch. 8, part 3, Ch. 9, part 4, Ch. 13, part 4, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1997 MAR p. 1660, Eff. 9/23/97; TRANS, to ARM 2.43.2120, 2008 MAR p. 1946, Eff. 11/27/08.)

2.43.428 ACCEPTABLE DOCUMENTATION OF PUBLIC SERVICE EMPLOYMENT (REPEALED) (History: 19-2-403, MCA; IMP, 19-2-715, 19-3-503, 19-3-505, 19-3-510, 19-3-512, 19-3-515, 19-6-801, 19-6-803, 19-7-803, 19-8-901, 19-8-903, 19-9-403, 19-13-403, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1982, Eff. 9/12/03; REP, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.429 FULL SALARY CREDIT FOR TEMPORARY WORK REDUCTIONS (REPEALED) (History: 19-3-304, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-3-308, 19-6-204, 19-7-203, 19-8-204, 19-9-204, 19-13-205, MCA; NEW, 1987 MAR p. 1338, Eff. 8/14/87; REP, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.430 OUT-OF-STATE OR FEDERAL PUBLIC SERVICE (REPEALED) (History: 19-2-403, 19-3-304, MCA; IMP, 19-3-512, 19-6-803, 19-8-903, MCA; NEW, 1987 MAR p. 1338, Eff. 8/14/87; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 1999 MAR p. 1504, Eff. 7/2/99; REP, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.431 SHERIFF'S MILITARY BUYBACK (REPEALED) (History: 19-7-201, MCA; IMP, 19-7-310, MCA; NEW, 1987 MAR p. 1338, Eff. 8/14/87; AMD, 1990 MAR p. 994A, Eff. 7/1/90; REP, 1992 MAR p. 466, Eff. 5/29/92.)

2.43.432 "1-FOR-5" ADDITIONAL SERVICE (TRANSFERRED) (History: 19-2-403, 19-3-304, 19-7-201, MCA; IMP, 19-3-513, 19-5-409, 19-6-804, 19-7-311, 19-7-804, 19-8-904, 19-9-411, 19-13-405, MCA; NEW, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1991 MAR p. 510, Eff. 4/26/91; AMD, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 1995 MAR p. 1033, Eff. 6/16/95; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD & TRANS, to ARM 2.43.2318, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.433 PURCHASE OF FULL-TIME SERVICE BY PART-TIME MEMBERS (TRANSFERRED) (History: 19-3-304, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, Title 19, Ch. 3, 6, 7, 8, 9, 13, MCA; NEW, 1990 MAR p. 994A, Eff. 7/1/90; AMD & TRANS, to ARM 2.43.2310, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.434 SERVICE CREDITS FOR PERIODS OF COMPENSATED EDUCATIONAL LEAVE (REPEALED) (History: 19-3-304, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, Title 19, Ch. 3, 6, 7, 8, 9, 13, MCA; NEW, 1991 MAR p. 2216, Eff. 11/15/91; REP, 1999 MAR p. 1504, Eff. 7/2/99.)

2.43.435 PURCHASE OF RETROACTIVE SERVICE BY FEE BASIS OFFICIALS (REPEALED) (History: 19-3-304, 19-6-201, 19-7-201, MCA; IMP, Title 19, Ch. 3, 6, 7, MCA; NEW, 1991 MAR p. 2216, Eff. 11/15/91; REP, 1999 MAR p. 1504, Eff. 7/2/99.)

2.43.436 PURCHASE OF PREVIOUS MILITARY SERVICE—MODIFICATIONS AFFECTING ACTUARIAL COST (REPEALED) (History: 19-2-403, 19-7-201, 19-9-201, 19-13-202, MCA; IMP, 19-7-301, 19-7-803, 19-9-403, 19-13-403, MCA; NEW, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 1994 MAR p. 291, Eff. 2/11/94; REP, 2004 MAR p. 563, Eff. 3/12/04.)

2.43.437 MILITARY SERVICE (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-3-503, 19-5-410, 19-6-801, 19-7-803, 19-8-901, 19-9-403, 19-13-403, MCA; NEW, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD, 2000 MAR p. 70, Eff. 1/14/00; AMD, 2004 MAR p. 563, Eff. 3/12/04; AMD & TRANS, to ARM 2.43.2316, 2008 MAR p.2467, Eff. 12/1/08.)

2.43.438 HIGHWAY PATROL OFFICERS' OUT-OF-STATE LAW ENFORCEMENT SERVICE (REPEALED) (History: 19-6-201, MCA; IMP, 19-6-306, MCA; NEW, 1991 MAR p. 2216, Eff. 11/15/91; REP, 1999 MAR p. 1504, Eff. 7/2/99.)

2.43.439 ELECTION BY LOCAL GOVERNMENTS TO BE SUBJECT TO THE RETIREMENT INCENTIVE PROGRAM (REPEALED) (History: 19-2-403, 19-3-908, MCA; IMP, 19-3-908, MCA; NEW, 1993 MAR p. 2008, Eff. 8/27/93; REP, 1996 MAR p. 408, Eff. 2/9/96.)

2.43.440 SERVICE PURCHASES BY INACTIVE VESTED MEMBERS (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-3-401, 19-5-301, 19-6-301, 19-7-301, 19-8-301, 19-9-301, 19-13-301, MCA; NEW, 1995 MAR p. 2386, Eff. 11/10/95; AMD & TRANS, to ARM 2.43.2309, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.441 PURCHASE OF SERVICE THROUGH DIRECT TRUSTEE-TO-TRUSTEE TRANSFER OF FUNDS (TRANSFERRED) (History: 19-2-403, 19-2-1010, 19-3-2104, MCA; IMP, 19-2-704, 19-3-2113, 19-3-2115, MCA; NEW, 2002 MAR p. 1889, Eff. 7/12/02; AMD, 2003 MAR p. 1800, Eff. 8/15/03; AMD, 2005 MAR p. 913, Eff. 6/17/05; AMD, 2008 MAR p. 117, Eff. 2/1/08; TRANS, to ARM 2.43.2312, 2009 MAR p. 78, Eff. 12/1/08.)

2.43.442 ELIGIBLE FEDERAL VOLUNTEER SERVICE (TRANSFERRED)
(History: 19-2-403, MCA; IMP, 19-3-515, MCA; NEW, 2003 MAR p. 1982, Eff. 9/12/03; TRANS, to ARM 2.43.2314, 2009 MAR p. 78, Eff. 12/1/08.)

Rules 2.43.443 through 2.43.449 reserved

2.43.450 NOTICE TO POTENTIALLY ELIGIBLE EMPLOYEES
(REPEALED) (History: 19-2-403, 19-3-908, MCA; IMP, 19-3-908, MCA; NEW, 1993 MAR p. 2008, Eff. 8/27/93; REP, 1996 MAR p. 408, Eff. 2/9/96.)

2.43.451 PURCHASE OF ADDITIONAL SERVICE BY EMPLOYERS
(TRANSFERRED) (History: 19-2-403, 19-3-908, MCA; IMP, 19-2-706, 19-3-908, MCA; NEW, 1993 MAR p. 2008, Eff. 8/27/93; AMD, 1995 MAR p. 1320, Eff. 7/14/95; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD & TRANS, to ARM 2.43.2319, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.452 RETURN TO EMPLOYMENT WITHIN SAME JURISDICTION
(TRANSFERRED) (History: 19-2-403, 19-3-908, MCA; IMP, 19-2-706, 19-3-908, MCA; NEW, 1993 MAR p. 2008, Eff. 8/27/93; AMD, 1993 MAR p. 2762, Eff. 11/25/93; AMD, 1995 MAR p. 1320, Eff. 7/14/95; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD, 2001 MAR p. 1834, Eff. 9/21/01; AMD & TRANS, to ARM 2.43.2609, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.453 INFORMATION TO BE RETAINED BY EMPLOYERS
(REPEALED) (History: 19-2-403, MCA; IMP, 19-3-908, MCA; NEW, 1993 MAR p. 2008, Eff. 8/27/93; AMD, 1993 MAR p. 2762, Eff. 11/25/93; REP, 1996 MAR p. 408, Eff. 2/9/96.)

Subchapter 5

Service and Disability Retirement

2.43.501 SERVICE RETIREMENT – WHEN EFFECTIVE (REPEALED)

(History: 19-3-903, 19-5-201, 19-6-201, 19-8-201, MCA; IMP, 19-3-903, 19-5-501, 19-6-501, 19-8-601, MCA; Eff. 12/31/72; REP, 1986 MAR p. 1454, Eff. 8/29/86.)

2.43.502 APPLICATION PROCESS FOR DISABILITY BENEFITS

(TRANSFERRED) (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-2-406, 19-3-1002, 19-3-1005, 19-3-2141, 19-5-601, 19-6-601, 19-7-601, 19-8-701, 19-9-902, 19-13-802, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.2602, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.503 APPLICATION PROCESS FOR SERVICE RETIREMENT

(TRANSFERRED) (History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, Title 19, Ch. 3, parts 9, 11, Ch. 5, parts 5, 7, Ch. 6, part 5, Ch. 7, parts 5, 7, Ch. 8, parts 6, 8, Ch. 9, part 8, Ch. 13, part 7, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, to ARM 2.43.2601, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.504 ACCEPTABLE PROOF OF DATE OF BIRTH (TRANSFERRED)

(History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, Title 19, Ch. 3, parts 9, 11, Ch. 5, parts 5, 7, Ch. 6, part 5, Ch. 7, parts 5, 7, Ch. 8, parts 6, 8, Ch. 9, part 8, Ch. 13, part 7, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, to ARM 2.43.2603, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.505 INVOLUNTARY RETIREMENT (TRANSFERRED)

(History: 19-5-201, 19-7-201, MCA; IMP, 19-5-503, 19-7-504, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1991 MAR p. 2216, Eff. 11/15/91; AMD & TRANS, to ARM 2.43.3403, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.506 RETURN TO COVERED EMPLOYMENT BY RETIREE – REPORT

(TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-3-1104, 19-3-1106, 19-7-1101, MCA; NEW, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 2003 MAR p. 1981, Eff. 9/12/03; AMD & TRANS, to ARM 2.43.2608, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.507 ELECTION FOR COVERAGE UNDER NONDISCRIMINATORY PERS DISABILITY PROVISIONS (REPEALED) (History: 19-2-403, 19-3-304, MCA; IMP, 19-3-1002, 19-3-1008, MCA; NEW, 1991 MAR p. 2216, Eff. 11/15/91; REP, 1994 MAR p. 2106, Eff. 7/8/94.)

2.43.508 PERIODIC MEDICAL REVIEW OF DISABILITY BENEFIT RECIPIENTS (TRANSFERRED) (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.2701, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.509 PERIODIC MEDICAL REVIEW OF DISABILITY BENEFIT RECIPIENTS – INITIAL NOTICE (TRANSFERRED) (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1995 MAR p. 206, Eff. 2/10/95; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.2702, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.510 INITIAL AGENCY REVIEW OF MEDICAL EVIDENCE – NOTICE OF ADDITIONAL EVIDENCE REQUIRED (TRANSFERRED) (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.2703, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.511 FAILURE TO RESPOND – SECOND NOTICE (TRANSFERRED) (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.2704, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.512 SUSPENSION OF DISABILITY BENEFITS – NOTICE (TRANSFERRED) (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, to ARM 2.43.2705, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.513 CANCELLATION OF DISABILITY BENEFITS FOR REFUSAL TO COMPLY – NOTICE (TRANSFERRED) (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1995 MAR p. 206, Eff. 2/10/95; AMD, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, to ARM 2.43.2706, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.514 CANCELLATION OF DISABILITY BENEFITS DUE TO CHANGE OF MEDICAL STATUS (TRANSFERRED) (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1995 MAR p. 206, Eff. 2/10/95; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.2707, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.515 APPEAL OF CANCELLATION OF BENEFITS (TRANSFERRED)

(History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.2711, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.516 through 2.43.519 reserved

2.43.520 ELECTION FOR GUARANTEED ANNUAL BENEFIT

ADJUSTMENT COVERAGE (GABA) (REPEALED) (History: 19-2-403, 19-2-1101, 19-5-901, 19-6-710, 19-9-1009, 19-13-1010, MCA; IMP, 19-2-1101, 19-5-901, 19-5-902, 19-6-710, 19-6-711, 19-9-1009, 19-9-1010, 19-9-1013, 19-13-1010, 19-13-1011, MCA; NEW, 1997 MAR p. 2280, Eff. 12/16/97; AMD, 2001 MAR p. 1834, Eff. 9/21/01; REP, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 6

Payments and Adjustments

2.43.601 ESTIMATES OF RETIREMENT BENEFITS (REPEALED)

(History: 19-3-304, 19-5-201, 19-6-201, 19-8-201, MCA; IMP, 19-3-304, 19-5-201, 19-6-201, 19-8-201, MCA; Eff. 12/31/72; REP, 1986 MAR p. 1454, Eff. 8/29/86.)

2.43.602 PAYMENT OF RETIREMENT BENEFITS (REPEALED)

(History: 19-3-304, 19-5-201, 19-6-201, 19-8-201, MCA; IMP, 19-3-304, 19-5-201, 19-6-201, 19-8-201, MCA; Eff. 12/31/72; REP, 1986 MAR p. 1454, Eff. 8/29/86.)

2.43.603 REFUNDS (TRANSFERRED)

(History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-3-703, 19-5-403, 19-6-403, 19-7-304, 19-8-503, 19-9-304, 19-9-602 19-13-602, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD & TRANS, to ARM 2.43.2901, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.604 DEATH PAYMENTS, SURVIVOR BENEFITS, AND OPTIONAL RETIREMENT BENEFITS (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-801, 19-3-1201, 19-5-801, 19-5-802, 19-6-901, 19-6-902, 19-6-903, 19-7-901, 19-8-1001, 19-8-1002, 19-8-1003, 19-9-1101, 19-9-1102, 19-13-902, 19-13-903, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2001 MAR p. 1834, Eff. 9/21/01; AMD & TRANS, to ARM 2.43.2902, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.605 DESIGNATION OF BENEFICIARY (REPEALED)

(History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-3-1301, 19-5-602, 19-6-602, 19-7-602, 19-8-702, 19-9-912, 19-13-903, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; REP, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.606 CONVERSION OF OPTIONAL RETIREMENT (REPEALED)

(History: 19-2-403, 19-5-701, 19-7-1001, 19-8-801, MCA; IMP, 19-3-1501, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD, 1995 MAR p. 1791, Eff. 9/15/95; AMD, 2002 MAR p. 1890, Eff. 7/12/02; REP, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.607 PAYMENT TO AN ESTATE (TRANSFERRED)

(History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-3-1302, Title 19, Ch. 5, part 6, Ch. 6, part 6, Ch. 7, part 6, Ch. 8, part 7, 19-9-912, 19-13-903, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, to ARM 2.43.2903, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.608 REDUCTION IN WORK FORCE (REPEALED)

(History: 19-2-403, 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-13-202, MCA; IMP, 19-3-703, 19-5-403, 19-6-403, 19-7-304, 19-8-503, 19-9-304, 19-9-602, 19-13-304, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1994 MAR p. 291, Eff. 2/11/94.

2.43.609 POST-RETIREMENT ADJUSTMENT (REPEALED) (History: 19-3-304, 19-7-201, 19-8-201, MCA; IMP, 19-3-1109, 19-3-1110, 19-3-1111, 19-7-708, 19-7-709, 19-7-710, 19-8-808, 19-8-809, 19-8-810, MCA; NEW, 1990 MAR p. 1250, Eff. 7/1/90; AMD, 1993 MAR p. 1200, Eff. 6/11/93; REP, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.610 MINIMUM BENEFIT ADJUSTMENT FOR RETIREES WITH PART-PAID FIREFIGHTER SERVICE (REPEALED) (History: 19-13-202, MCA; IMP, 19-13-1007, 19-13-1009, MCA; NEW, 1990 MAR p. 994A, Eff. 7/1/90; REP, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.611 MUNICIPAL POLICE OFFICERS' SUPPLEMENTAL BENEFITS AND ALLOWANCE ADJUSTMENTS (TRANSFERRED) (History: 19-9-201, MCA; IMP, 19-9-1007, 19-9-1011, MCA; NEW, 1991 MAR p. 2216, Eff. 11/15/91; AMD & TRANS, to ARM 2.43.4603, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.612 ELIGIBILITY FOR ANNUAL BENEFIT ADJUSTMENT (REPEALED) (History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-12-203, 19-13-202, MCA; IMP, 19-15-102, MCA; NEW, 1991 MAR p. 2402, Eff. 12/13/91; AMD, 1992 MAR p. 2721, Eff. 12/25/92; REP, 1995 MAR p. 533, Eff. 4/14/95.)

2.43.613 CALCULATION OF ANNUAL BENEFIT ADJUSTMENT (REPEALED) (History: 19-3-304, 19-5-201, 19-6-201, 19-7-201, 19-8-201, 19-9-201, 19-12-203, 19-13-202, MCA; IMP, 19-15-102, MCA; NEW, 1991 MAR p. 2402, Eff. 12/15/91; AMD, 1992 MAR p. 2721, Eff. 12/25/92; REP, 1995 MAR p. 533, Eff. 4/14/95.)

2.43.614 ANNUAL CERTIFICATION OF PENSION PAYMENTS BY LOCAL POLICE AND FIRE PENSION PLANS (REPEALED) (History: 19-15-101, MCA; IMP, 19-15-101, MCA; NEW, 1991 MAR p. 2402, Eff. 12/15/91; AMD, 1992 MAR p. 2721, Eff. 12/25/92; REP, 1995 MAR p. 533, Eff. 4/14/95.)

2.43.615 FAMILY LAW ORDERS – CONTENTS AND DURATION (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-907, MCA; NEW, 1993 MAR p. 2400, Eff. 10/15/93; AMD, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, to ARM 2.43.1704, Eff. 9/30/02.)

2.43.616 FAMILY LAW ORDERS – APPROVAL AND IMPLEMENTATION (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-907, MCA; NEW, 1993 MAR p. 2400, Eff. 10/15/93; AMD, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, to ARM 2.43.1705, Eff. 9/30/02.)

2.43.617 PAYMENT OF ESTIMATED BENEFITS (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-403, 19-2-502, MCA; NEW, 1994 MAR p. 3182, Eff. 12/23/94; AMD & TRANS, to ARM 2.43.2607, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 7

Social Security Coverage
for Employees of the State and Its Political Subdivisions

2.43.701 POLITICAL SUBDIVISIONS ELIGIBLE FOR TERMINATION
(REPEALED) (History: 19-1-201, MCA; IMP, 19-1-301, MCA; NEW, Eff. 6/5/76; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.702 INITIATION OF PROCEEDING (REPEALED) (History: 19-1-201, MCA; IMP, 19-1-301, MCA; NEW, Eff. 6/5/76; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.703 TRANSMISSION OF CERTIFIED COPY OF RESOLUTION
(REPEALED) (History: 19-1-201, MCA; IMP, 19-1-301, MCA; NEW, Eff. 6/5/76; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.704 AUTHORIZATION OF REFERENDUM BY GOVERNOR
(REPEALED) (History: 19-1-201, MCA; IMP, 19-1-301, 19-1-302, MCA; NEW, Eff. 6/5/76; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.705 NOTICE OF REFERENDUM (REPEALED) (History: 19-1-201, MCA; IMP, 19-1-303, MCA; NEW, Eff. 6/5/76; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.706 PROOF OF NOTICE (REPEALED) (History: 19-1-201, MCA; IMP, 19-1-303, MCA; NEW, Eff. 6/5/76; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.707 ELIGIBILITY TO VOTE IN REFERENDUM (REPEALED) (History: 19-1-201, MCA; IMP, 19-1-301, 19-1-302, MCA; NEW, Eff. 6/5/76; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.708 CERTIFICATE OF RESULTS OF REFERENDUM (REPEALED)
(History: 19-1-201, MCA; IMP, 19-1-302, 19-1-304, MCA; NEW, Eff. 6/5/76; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.709 NOTICE OF TERMINATION OF COVERAGE (REPEALED)
(History: 19-1-201, MCA; IMP, 19-1-304, MCA; NEW, Eff. 6/5/76; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.710 WITHDRAWAL OF NOTICE OF TERMINATION (REPEALED)
(History: 19-1-201, MCA; IMP, 19-1-304, MCA; NEW, Eff. 6/5/76; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.711 DEFINITIONS (REPEALED) (History: 19-1-201, MCA; IMP, Title 19, Ch. 1, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1999 MAR p. 1504, Eff. 7/2/99.)

2.43.712 REQUIRED REPORTS (REPEALED) (History: 19-1-201, MCA; IMP, Title 19, Ch. 1, part 7, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1990 MAR p. 994A, Eff. 7/1/90.)

2.43.713 COVERAGE PROCEDURES FOR POLITICAL SUBDIVISIONS NOT UNDER A RETIREMENT SYSTEM (REPEALED) (History: 19-1-201, MCA; IMP, Title 19, Ch. 1, parts 3, 5, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1999 MAR p. 1504, Eff. 7/2/99.)

2.43.714 COVERAGE PROCEDURES FOR POLITICAL SUBDIVISIONS UNDER A RETIREMENT SYSTEM (REPEALED) (History: 19-1-201, MCA; IMP, Title 19, Ch. 1, parts 3, 5, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; REP, 1999 MAR p. 1504, Eff. 7/2/99.)

2.43.715 ERROR DISCOVERED BY SOCIAL SECURITY ADMINISTRATION (REPEALED) (History: 19-1-201, MCA; IMP, Title 19, Ch. 1, parts 7, 8, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; REP, 1999 MAR p. 1504, Eff. 7/2/99.)

2.43.716 LATE FILING PENALTIES (REPEALED) (History: 19-1-201, MCA; IMP, Title 19, Ch. 1, parts 7, 8, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; REP, 1999 MAR p. 1504, Eff. 7/2/99.)

Subchapter 8

Volunteer Firefighters

2.43.801 BASIC UNIT OF SERVICE TIME (TRANSFERRED) (History: 19-17-203, MCA; IMP, 19-17-201, 19-17-401, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, to ARM 2.43.5001, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.802 REQUIRED REPORTS (TRANSFERRED) (History: 19-17-203, MCA; IMP, 19-17-201, 19-17-402, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, to ARM 2.43.5002, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.803 APPLICATION FOR GROUP INSURANCE PREMIUM PAYMENTS (TRANSFERRED) (History: 19-17-203, MCA; IMP, 19-17-103, 19-17-201, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, to ARM 2.43.5006, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.804 PAYMENTS TO SERVICE PROVIDERS FOR MEDICAL EXPENSES RESULTING FROM DUTY-RELATED INJURIES AND ILLNESSES (TRANSFERRED) (History: 19-17-203, MCA; IMP, 19-17-103, 19-17-201, 19-17-506, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, to ARM 2.43.5007, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 9

Reporting Qualified Plan Compensation

2.43.901 TREATING SALARY DEFERRALS UNDER A CAFETERIA PLAN AS COMPENSATION – POLICY AND OBJECTIVES (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; TRANS, to ARM 2.43.2201, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.902 TREATING SALARY DEFERRALS UNDER A CAFETERIA PLAN AS COMPENSATION – APPLICABILITY (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; TRANS, to ARM 2.43.2202, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.903 and 2.43.904 reserved

2.43.905 TREATING SALARY DEFERRALS UNDER A CAFETERIA PLAN AS COMPENSATION – BACKGROUND (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; AMD & TRANS, to ARM 2.43.2205, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.906 through 2.43.908 reserved

2.43.909 PROCEDURES – COMPENSATION MUST BE TREATED CONSISTENTLY (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; TRANS, to ARM 2.43.2209, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.910 PROCEDURES – PLANS THAT OFFER A CHOICE AMONG NONTAXABLE BENEFITS ONLY (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; TRANS, to ARM 2.43.2210, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.911 PROCEDURES – BONA FIDE CAFETERIA PLANS (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; TRANS, to ARM 2.43.2211, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.912 and 2.43.913 reserved

2.43.914 IMPLEMENTATION AND COMPLIANCE (TRANSFERRED)

(History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; AMD & TRANS, to ARM 2.43.2214, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 10

Public Employees' Retirement System (PERS)
Defined Contribution Retirement Plan

2.43.1001 ADOPTION OF DEFINED CONTRIBUTION PLAN DOCUMENT AND TRUST AGREEMENT (TRANSFERRED) (History: 19-3-2104, MCA; IMP, 19-3-2102, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, to ARM 2.43.3501, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1002 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (TRANSFERRED) (History: 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2122, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2004 MAR p. 1131, Eff. 5/7/04; AMD, 2007 MAR p. 677, Eff. 5/25/07; AMD & TRANS, to ARM 2.43.3502, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1003 DEFINED CONTRIBUTION RETIREMENT PLAN INVESTMENT OPTIONS (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2122, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2004 MAR p. 1131, Eff. 5/7/04; AMD & TRANS, to ARM 2.43.3503, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1004 DEFINED CONTRIBUTION RETIREMENT PLAN DEFAULT INVESTMENT FUND (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2114, 19-3-2115, 19-3-2117, 19-3-2122, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2004 MAR p. 1131, Eff. 5/7/04; AMD & TRANS, to ARM 2.43.3504, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1005 ESTABLISHMENT OF LONG-TERM DISABILITY TRUST FUND (TRANSFERRED) (History: 19-3-2104, 19-3-2141, MCA; IMP, 19-3-2117, 19-3-2141, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, to ARM 2.43.3505, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1006 through 2.43.1009 reserved

2.43.1010 ELECTION PERIOD (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.3510, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1011 RETIREMENT PLAN CHOICE ELECTION FORM (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.3511, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1012 ELECTION ELIGIBILITY AND CONFIRMATION (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2111, 19-3-2112, 19-3-2115, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.3512, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1013 and 2.43.1014 reserved

2.43.1015 PURCHASE OF SERVICE NOT PERMITTED BY PARTICIPANT IN DEFINED CONTRIBUTION RETIREMENT PLAN (TRANSFERRED) (History: 19-2-403, 19-2-1010, 19-3-2104, MCA; IMP, 19-2-710, 19-3-2111, 19-3-2112, 19-3-2115, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2003 MAR p. 1800, Eff. 8/15/03; AMD, 2005 MAR p. 913, Eff. 6/17/05; AMD & TRANS, to ARM 2.43.3515, 2008 MAR p. 2467, Eff. 12/1/08.)

Rule 2.43.1016 reserved

2.43.1017 FAMILY LAW ORDERS, EXECUTIONS, AND INCOME WITHHOLDING ORDERS AND ELECTIONS (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-2-907, 19-2-909, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.3517, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1018 and 2.43.1019 reserved

2.43.1020 ELECTION FOR EMPLOYEES IN OPTIONAL PERS MEMBERSHIP POSITIONS (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.3520, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1021 and 2.43.1022 reserved

2.43.1023 MEMBERSHIP IN OTHER TITLE 19 RETIREMENT PLANS (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, to ARM 2.43.3523, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1024 RETIREES NOT ENTITLED TO ELECTION (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-1106, 19-3-2104, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, to ARM 2.43.3524, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1025 MONTANA UNIVERSITY SYSTEM EMPLOYEE ELECTIONS (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2112, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, to ARM 2.43.3525, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1026 through 2.43.1029 reserved

2.43.1030 TRANSFER OF DEFINED BENEFIT RETIREMENT PLAN FUNDS TO THE DEFINED CONTRIBUTION RETIREMENT PLAN (REPEALED) (History: 19-2-403, 19-3-2104, 19-3-2112, MCA; IMP, 19-3-2112, 19-3-2114, 19-3-2117, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; REP, 2008 MAR p.2467, Eff. 12/1/08.)

2.43.1031 TIMING OF TRANSFERS TO THE DEFINED CONTRIBUTION RETIREMENT PLAN (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2114, 19-3-2117, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.3531, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1032 CREDITING OF INDIVIDUAL ACCOUNTS (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2117, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.3532, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1033 through 2.43.1039 reserved

2.43.1040 DISABILITY BENEFITS FOR MEMBERS OF THE DEFINED CONTRIBUTION RETIREMENT PLAN (TRANSFERRED) (History: 19-3-2104, 19-3-2141, MCA; IMP, 19-3-2141, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2003 MAR p. 1800, Eff. 8/15/03; TRANS, to ARM 2.43.3540, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1041 through 2.43.1044 reserved

2.43.1045 DISTRIBUTION TO PARTICIPANT (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-2-1007, 19-3-2123, 19-3-2124, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.3545, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1046 DISTRIBUTION UPON DEATH OF PARTICIPANT (TRANSFERRED) (History: 19-2-403, 19-3-2104, MCA; IMP, 19-2-1007, 19-3-2124, 19-3-2125, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.3546, 2008 MAR p. 2467, Eff. 12/1/08.)

Sub-Chapter 11

Municipal Police Officers' Retirement System

2.43.1101 DEFINITIONS (TRANSFERRED) (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1205, MCA; NEW, 2002 MAR p. 2652, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.4606, 2008 MAR p.2467, Eff. 12/1/08.)

Rules 2.43.1102 and 2.43.1103 reserved

2.43.1104 DROP APPLICATION PROCESS (TRANSFERRED) (History: 19-2-403, 19-3-1203, MCA; IMP, 19-3-1203, 19-9-1204, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; AMD, 2003 MAR p. 1800, Eff. 8/15/03; AMD & TRANS, to ARM 2.43.4609, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1105 DROP PERIOD (TRANSFERRED) (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1203, 19-9-1204, 19-9-1206, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, to ARM 2.43.4610, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1106 and 2.43.1107 reserved

2.43.1108 DROP PARTICIPATION LIMITS (TRANSFERRED) (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1203, 19-9-1204, 19-9-1205, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, to ARM 2.43.4613, 2008 MAR p. 2467, Eff. 12/1/08.)

Rule 2.43.1109 reserved

2.43.1110 ESTIMATED MONTHLY DROP ACCRUAL (TRANSFERRED) (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1203, 19-9-1205, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, to ARM 2.43.4615, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1111 INTEREST PAID TO PARTICIPANTS (TRANSFERRED) (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1206, 19-9-1208, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.4616, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1112 DISTRIBUTION OF DROP BENEFIT (TRANSFERRED) (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1206, 19-9-1208, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; AMD & TRANS, to ARM 2.43.4617, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1113 DISTRIBUTION OF DROP BENEFIT PURSUANT TO FAMILY LAW ORDER (TRANSFERRED) (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1208, MCA; NEW, 2003 MAR p. 1801, Eff. 8/15/03; TRANS, to ARM 2.43.4618, 2008 MAR p. 2467, Eff. 12/1/08.)

Rule 2.43.1114 reserved

2.43.1115 EMPLOYMENT AFTER THE DROP PERIOD (TRANSFERRED)
(History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1207, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, to ARM 2.43.4620, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1116 and 2.43.1117 reserved

2.43.1118 GUARANTEED ANNUAL BENEFIT ADJUSTMENT INCREASES FOR DROP PARTICIPANTS (TRANSFERRED) (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1205, 19-9-1207, 19-9-1208, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, to ARM 2.43.4623, 2008 MAR p. 2467, eff. 12/1/08.)

2.43.1119 MINIMUM BENEFIT FOR DROP PARTICIPANTS (TRANSFERRED) (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1205, 19-9-1207, 19-9-1208, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, to ARM 2.43.4624, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 12

Detention Officers

Rules 2.43.1201 through 2.43.1209 reserved

2.43.1210 DETENTION OFFICER MEMBERSHIP IN SHERIFFS' RETIREMENT SYSTEM (SRS) (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-7-101, 19-7-301, 19-7-302, MCA; NEW, 2005 MAR p. 1670, Eff. 9/9/05; AMD & TRANS, to ARM 2.43.4203, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1211 DETENTION OFFICER ELECTION TO TRANSFER TO SHERIFFS' RETIREMENT SYSTEM (SRS) (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-7-101, 19-7-301, 19-7-302, MCA; NEW, 2005 MAR p. 1670, Eff. 9/9/05; AMD & TRANS, to ARM 2.43.4204, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1212 DETENTION CENTER REPORTS FROM SHERIFFS (TRANSFERRED) (History: 19-2-403, MCA; IMP, 19-7-101, 19-7-301, 19-7-302, MCA; NEW, 2005 MAR p. 1670, Eff. 9/9/05; AMD & TRANS, to ARM 2.43.4207, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 13

General

2.43.1301 RETIREMENT SYSTEMS COVERED (1) Except where specifically noted, all the rules in this subchapter are in effect for the following retirement systems:

- (a) Public Employees' (PERS);
- (b) Game Wardens' and Peace Officers' (GWPORS);
- (c) Judges' (JRS);
- (d) Highway Patrol Officers' (HPORS);
- (e) Sheriffs' (SRS);
- (f) Municipal Police Officers' (MPORS); and
- (g) Firefighters' Unified (FURS).

(2) Each of the above-listed retirement systems also have their own subchapter containing rules unique to that system. Both this subchapter and the subchapter designated for a particular retirement system should be consulted when determining applicable administrative rules. (History: 19-2-403, MCA; IMP, 19-2-403, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, from ARM 2.43.301, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1302 DEFINITIONS Undefined terms used in this chapter are consistent with statutory meanings. Defined terms will be applied to the statutes unless a contrary meaning clearly appears. For the purposes of this chapter, the following definitions apply:

- (1) "Additional service" means one year of service for each five years of membership service as explained in ARM 2.43.2318.
- (2) "Benefit recipient" means any retired member, contingent annuitant, or survivor who receives a monthly benefit payment from a retirement system. It does not include a beneficiary who receives a lump-sum payment or an annuity.
- (3) "Board" means the Montana Public Employees' Retirement Board.
- (4) "Contested case" means a legal proceeding, as set forth in these rules, subsequent to preliminary administrative determination.
- (5) "Contingent beneficiary" means a beneficiary designated to receive payments if all primary beneficiaries are deceased. Contingent beneficiaries will be on a share and share alike basis, unless the member specifies otherwise.
- (6) "Continuous employment" means a member serves in full-time, part-time, or seasonal employment, but does not terminate service nor withdraw the accumulated contributions from the member's account.
- (7) "DBRP" means the defined benefit retirement plan within PERS.

(8) "DCRP" means the defined contribution retirement plan within PERS.

(9) "Employment" or "reemployment" means the performance of services for an employer by a person other than an independent contractor. If any of the four factors listed in (16) indicate control or direction by the employer, an employment relationship exists.

(10) "Filed" or "filed with the board" generally means the mailing of a form or payment in a stamped envelope which is properly addressed to MPERA or the board.

(a) The postmark date will be used to determine the date on which filing occurs.

(b) If the form or payment is hand-delivered, it is considered filed on the day it is personally delivered to the MPERA office.

(c) If the form is faxed or e-mailed to MPERA, it is considered filed on the day it is received in the MPERA office, provided a hard copy is received in the MPERA office within five working days of the filing date, because an original signature is required.

(11) "Full-time employment" for service credit, means an employer or employers paid the member for at least 160 hours during a calendar month. A member may not receive more than one month credit for months in which the member receives pay for more than 160 hours.

(12) "Full-time public service employment" means full time employment which when it was performed was not covered by a system referred to in 19-2-302, MCA, and may not otherwise be credited in a retirement system.

(13) "FURS" means the Firefighters' Unified Retirement System.

(14) "GWPORS" means the Game Wardens' and Peace Officers' Retirement System.

(15) "HPORS" means the Highway Patrol Officers' Retirement System.

(16) "Independent contractor" means an individual who renders service in the course of an occupation and is both:

(a) engaged in an independent trade, occupation, profession, or business; and

(b) under contract and in fact, at all times free from control or direction over the performance of the services.

(i) MPERA may consider but is not limited to the following factors when determining freedom from control and direction:

(A) right or exercise of control of the means by which the work is accomplished;

(B) method of payment (time basis indicates employment);

(C) furnishing of equipment; and

(D) employer's right to fire.

(ii) Independent contractor status may only be established by a convincing accumulation of these factors indicating freedom from control or direction over performance of the services.

(17) "JRS" means the Judges' Retirement System.

(18) "MPERA" means the Montana Public Employee Retirement Administration.

(19) "MPORS" means the Municipal Police Officers' Retirement System.

(20) "Part-time employment" for service credit means an employer or employers paid a member for less than 160 hours during a calendar month.

(21) "PERS" means the Public Employees' Retirement System.

(22) "Primary beneficiary" means a beneficiary designated to receive payments upon the death of a member. Primary beneficiaries will be on a share and share alike basis, unless the member specifies otherwise.

(23) "Seasonal employment" means employment of a permanent employee who is designated by an agency as seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season.

(24) "Service years" or "years of service" means periods of 12 calendar months of membership service which qualify members for retirement or other benefits.

(25) "SRS" means the Sheriffs' Retirement System.

(26) "Survivor" means the designated or statutory beneficiary of a member who dies while in service.

(27) "VFCA" means the Volunteer Firefighters' Compensation Act. (History: 19-2-403, MCA; IMP, 19-2-403, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1987 MAR p. 1338, Eff. 8/14/87; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1993 MAR p. 2762, Eff. 11/25/93; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1998 MAR p. 920, Eff. 4/17/98; AMD, 2001 MAR p. 1834, Eff. 9/21/01; AMD & TRANS, from ARM 2.43.302, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 830, Eff. 5/24/13.)

Rules 2.43.1303 through 2.43.1305 reserved

2.43.1306 ACTUARIAL RATES AND ASSUMPTIONS (1) The actuary will present the actuarial data and recommend the board adopt specific rates and assumptions. The board in its discretion will adopt rates and assumptions and publish them in a board policy. The board adopts and incorporates by reference BOARD Admin 09 Actuarial Valuation Assumptions and Methods (approved December 11, 2014) and BOARD Admin 10 Actuarial Equivalence Option Factor Determination (approved June 10, 2010), providing actuarial rates, assumptions, and methods used for valuation and actuarial equivalence purposes. BOARD Admin 09 also contains the early retirement factor tables applicable to PERS, HPORS, and SRS.

(2) MPERA shall maintain a historical file of all rates or assumptions, including the current version. The file shall be open and readily available to the public. Copies of the assumptions and board policies BOARD Admin 09 and BOARD Admin 10 may be obtained from MPERA, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, MT 59620-0131, phone 1 (877) 275-7372, e-mail mpera@mt.gov and are available on MPERA's web site at www.mpera.mt.gov.

(3) This rule applies to all systems administered by MPERA, including the VFCA but excluding the deferred compensation (457) plan. (History: 19-2-403, MCA; IMP, 19-2-405, 19-17-107, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1998 MAR p. 920, Eff. 4/17/98; AMD, 2008 MAR p. 1018, Eff. 5/23/08; TRANS, from ARM 2.43.304, 2009 MAR p. 78, Eff. 12/1/08; AMD, 2010 MAR p. 1881, Eff. 8/27/10; AMD, 2011 MAR p. 1678, Eff. 8/26/11; AMD, 2011 MAR p. 2800, Eff. 12/23/11; AMD, 2015 MAR p. 1893, Eff. 10/30/15.)

Rules 2.43.1307 through 2.43.1309 reserved

2.43.1310 APPLICATION OF ACTUARIAL ASSUMPTIONS FOR DETERMINING GABA (1) For purposes of determining the PERS GABA rates referenced in 19-3-1605(5), MCA, the actuary will:

(a) reduce the 1.5% GABA rate established in 19-3-1605(4), MCA by 0.1% for each full 2 percentage points the funded percentage is below 90%;

(b) establish a GABA rate expressed in tenths of a percent.

(2) This rule will not apply until the PERS amortization period is under 40 years.

(3) Once the PERS amortization period is under 40 years, the actuary will adjust the 1.5% GABA each year, based on that year's funding percentage. (History: 19-2-403, 19-3-1605, MCA; IMP, 19-2-405, 19-3-1605, MCA; NEW, 2013 MAR p. 2069, Eff. 11/15/13.)

2.43.1311 APPLICATION OF ACTUARIAL ASSUMPTIONS AND PROCESS FOR DETERMINING ACTUARIAL EQUIVALENT FACTORS (1) For purposes of determining actuarial equivalent factors for optional benefit determinations, early retirement factors, money purchase benefit calculations, and service purchases, the actuary will:

(a) assume a 1.5% GABA rate for future years; and
(b) establish new actuarial equivalent factors effective January 1, 2014 following the fiscal year 2013 actuarial valuation.

(2) The 1.5% GABA rate established in (1)(a) is prospective only. Optional benefit determinations, early retirement factor reductions, money purchase benefit calculations, and service purchases implemented prior to July 1, 2013, will not be affected.

(3) Prior to January 1, 2014, MPERA will work with members regarding the options available to them regarding optional benefit determinations, early retirement factor reductions, money purchase benefit calculations, and service purchases.

(4) In the event of a court order prohibiting the board from implementing a 1.5% GABA rate pursuant to 19-3-1605, MCA, the actuary will assume a GABA rate consistent with the court order for purposes of this administrative rule until the court order is amended or lifted. (History: 19-2-403, 19-3-1605, MCA; IMP, 19-2-405, 19-3-1605, MCA; NEW, 2013 MAR p. 2069, Eff. 11/15/13.)

2.43.1312 APPLICATION OF ACTUARIAL ASSUMPTIONS FOR DETERMINING THE AMOUNT OF COAL SEVERANCE TAX AND INTEREST INCOME STATUTORILY APPROPRIATED TO THE PERS DEFINED BENEFIT PLAN TRUST FUND (1) For purposes of determining the annual amount of coal severance tax and interest income from the coal severance tax permanent fund that will be statutorily appropriated to the PERS defined benefit plan trust fund, the actuary will rely on information provided by the Office of Budget and Program Planning. (History: 19-2-403, MCA; IMP, 19-2-405, MCA; NEW, 2013 MAR p. 2069, Eff. 11/15/13.)

Subchapter 14

Procedural Rules – General

2.43.1401 MODEL PROCEDURAL RULES (1) To the extent applicable to the operations of the public employees' retirement board, the board hereby adopts and incorporates by reference ARM 1.3.101 through 1.3.233, which set forth the attorney general's model procedural rules. (History: 2-4-201, 2-4-307, 19-2-403, MCA; IMP, 2-4-201, 19-2-403, MCA; Eff. 12/31/72; AMD, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2003 MAR p. 972, Eff. 5/9/03; TRANS, from ARM 2.43.201, 2009 MAR p.78, Eff. 12/01/08.)

2.43.1402 APPLICABILITY OF RULES (1) To the extent that procedural rules adopted herein are applicable to an action taken by MPERA or the board, they will be applied. To the extent that they are not applicable, procedural rules adopted herein may be followed at the option of the board. In both cases, these rules shall have full force and effect upon the activities over which the board has responsibility and/or authority. (History: 2-4-201, 19-2-403, MCA; IMP, Sec. 2-4-201, 19-2-403, MCA; Eff. 12/31/72; AMD, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2003 MAR p. 972, Eff. 5/9/03; TRANS, from ARM 2.43.202, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.1403 through 2.43.1404 reserved

2.43.1405 REQUEST FOR RELEASE OF INFORMATION (1) Telephone requests from system members or benefit recipients for general information will be handled in a manner most efficient to both the member or benefit recipient and MPERA, subject to written verification.

(2) Specific information, particular to a member or benefit recipient's account, will only be released by MPERA upon receipt of a written authorization signed by the member or benefit recipient.

(3) The executive director may release information to governmental agencies with statutory authority to access specific information. The requesting agency must submit the request in writing citing proper legal authority to obtain the specific information. (History: 19-2-403, MCA; IMP, 19-2-403, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD & TRANS, from ARM 2.43.303, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.1406 MAILING FOR NONPROFIT RETIREE ORGANIZATIONS

(1) MPERA may mail materials or contract to have materials mailed to retirees for eligible nonprofit retiree organizations.

(a) Contractors who mail materials for eligible nonprofit retiree organizations must agree to keep addresses confidential and to destroy all address sources immediately following completion of the mailing.

(b) The information may also be sent to system participants as a part of or in addition to regular newsletters.

(2) Eligible nonprofit retiree organizations must be tax exempt under section 501(c)(4) of the Internal Revenue Code. They must also hold a nonprofit mailing permit from the U.S. Postal Service.

(3) MPERA will provide application forms. A nonprofit retiree organization must submit an application to MPERA at least one month before any mailing. An application packet must contain:

(a) an application form signed by an officer of the organization;

(b) a copy of the IRS letter exempting the organization under section 501(c)(4) of the tax code;

(c) a copy of the certificate of incorporation as a nonprofit entity in Montana;

(d) if requesting bulk mailing, a copy of the organization's current U.S. Postal Mailing Permit; and

(e) an exact copy of the materials to be mailed.

(4) Upon approval, MPERA will provide the nonprofit retiree organization the estimated cost of the mailing. For bulk mailing, MPERA will provide a proposed completion date.

(5) When the mailing is complete, MPERA will bill the nonprofit retiree organization for the cost of the mailing. For mail inserted with estimates, MPERA will send the organization a bill each month. All charges must be paid within 30 days of billing. Thereafter, MPERA will charge the greater of interest at 9% compounded monthly from the billing date or \$10 per day. (History: 19-2-403, MCA; IMP, 2-6-109, 19-2-403, MCA; NEW, 1995 MAR p. 1318, Eff. 7/14/95; AMD, 1998 MAR p. 920, Eff. 4/17/98; AMD & TRANS, from ARM 2.43.308, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.1407 ACCEPTABLE MATERIALS – NONPROFIT RETIREE

ORGANIZATION MAILING (1) Pursuant to ARM 2.43.1406, MPERA will mail materials which conform to the following criteria:

(a) the packet of materials mailed to each person must be identical;

(b) each packet may include an application for membership in the nonprofit retiree organization and general information about the organization's activities. Material recommending actions that are not within the nonprofit nature and scope of the organization are prohibited. For example, an organization may not urge voting for a particular individual or joining another organization or affiliation.

(2) Each piece inserted with retirement estimates must be one single page, no larger than 8 1/2 inches by 17 inches, folded to fit within a regular business envelope. It may not be stapled or sealed in any manner.

(3) Each packet for bulk mailing must meet current postal requirements and must be printed with the nonprofit retiree organization's nonprofit mailing permit. (History: 19-2-403, MCA; IMP, 2-6-109, 19-2-403, MCA; NEW, 1995 MAR p. 1318, Eff. 7/14/95; AMD, 1998 MAR p. 920, Eff. 4/17/98; AMD & TRANS, from ARM 2.43.309, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.1408 RIGHT TO BE EXCLUDED – NONPROFIT RETIREE

ORGANIZATIONS (1) Any member or other person receiving benefits from a retirement system may request to be excluded from receiving, pursuant to ARM 2.43.1406, a mailing on behalf of all nonprofit retiree organizations by submitting a written request to MPERA.

(2) Requests for exclusion will become effective no later than 30 days after MPERA receives the signed written request. (History: 19-2-403, MCA; IMP, 2-6-109, 19-2-403, MCA; NEW, 1995 MAR p. 1318, Eff. 7/14/95; AMD & TRANS, from ARM 2.43.310, 2008 MAR p. 2467, Eff. 12/01/08.)

Subchapter 15

Procedural Rules – Contested Cases and Disabilities

2.43.1501 REVIEW OF ADMINISTRATIVE DECISION (1) An "administrative decision" means a decision issued by MPERA that determines an individual's or an entity's legal rights, duties, or privileges pursuant to the provisions of Title 19, MCA.

(2) Parties who disagree with the administrative decision may appeal the decision to the board within 90 days of the date of written notification.

(3) Administrative decisions that are appealed to the board will be initially decided by the board on the basis of material properly submitted by MPERA and the appealing party, and such other information as the board deems appropriate. The board may, on its own motion, postpone its initial decision until the next regularly scheduled board meeting.

(4) The board will notify the appealing party of its initial decision in writing. If the decision is adverse to the appealing party, the board will include a general statement of the reasons for its decision, which need not be exhaustive. The appealing party will be given two options, either of which must be exercised within 30 days of the date of written notification. The appealing party may submit a request in writing for:

- (a) reconsideration by the board; or
- (b) a contested case proceeding.

(5) A reconsideration by the board will be based on facts and matters submitted by the appealing party and MPERA to the board, the testimony of the appealing party before the board, and the presentation of the appealing party and MPERA, or their legal counsel, to the board.

(a) Unless otherwise ordered by the board pursuant to (5)(c), facts and matters may be submitted any time after the board's initial decision is issued until 21 days prior to the third regularly scheduled board meeting following issuance of the initial decision.

(b) Any response to submitted facts and matters must be provided to the opposing party no later than seven days prior to the regularly scheduled board meeting at which the matter will be considered.

(c) The board may, prior to issuing its decision on reconsideration and on its own motion, require the appealing party, MPERA, or both to submit additional facts and matters relevant to the issue before the board. The board may also, on its own motion, postpone its decision on reconsideration. However, in no case may the board prolong issuance of its decision on reconsideration for more than six months following issuance of its initial decision.

(d) The board will notify the party in writing of its decision on reconsideration. That decision will become final and will not be subject to a contested case proceeding or judicial review unless the party files a written request for a contested case proceeding within 30 days of the written notice of decision on reconsideration.

(6) MPERA's administrative decision, the board's initial decision, and its decision on reconsideration will be mailed to the affected parties. The time period for requesting further review of any of the decisions will commence three days following the date of the letter notifying the parties of the decision.

(7) If a party fails to exercise an available option within the time allowed by the board, the board's decision becomes final and is not subject to contested case proceedings or judicial review. Thereafter, a party may only appear before the board on the same matter based on new and different facts that are not repetitive, and for good cause shown.

(8) Unless otherwise provided, time periods may be enlarged only in writing by the board or its authorized representative and only on requests made prior to the expiration of the time period. (History: 19-2-403, MCA; IMP, 19-2-403, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1995 MAR p. 205, Eff. 2/10/95; AMD, 1997 MAR p. 1660, Eff. 9/23/97; AMD, 2003 MAR p. 972, Eff. 5/9/03; AMD & TRANS, from ARM 2.43.203, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2240, Eff. 11/28/13.)

2.43.1502 CONTESTED CASE PROCEDURES (1) Contested cases will be presided over and heard by a quorum of the board or a hearing examiner who may be any individual appointed by the board, including any board member.

(a) A party may seek to disqualify a hearing examiner only on the basis of a prehearing motion and affidavit containing an affirmative showing of prejudicial personal bias or lack of independence. The hearing examiner will rule on the motion or voluntarily disqualify himself or herself. The ruling will not be reviewed by the board.

(b) The hearing examiner has general authority to regulate the course of contested cases and may exercise the power and authority provided or implied by law, including 2-4-611, MCA.

(c) The hearing examiner may establish prehearing and hearing dates and procedures, rule on procedural matters, make proposed orders, findings and conclusions, and otherwise regulate the conduct and adjudication of contested cases as provided by law. The hearing, unless the parties stipulate otherwise, shall be conducted in the following order:

(i) the statement and evidence of the party opposing the board's initial decision or decision on reconsideration;

(ii) the statement and evidence of MPERA; and

(iii) rebuttal testimony.

(d) The contested case hearing must be conducted in Helena. The parties and their witnesses must appear in person unless, for good cause shown, the hearing examiner determines otherwise.

(e) The hearing examiner shall enter proposed findings of fact, conclusions of law, and order, with any necessary explanation, for review and final determination by the board.

(f) The jurisdiction and authority of a hearing examiner terminates upon the entry of a proposed order unless the board delegates further authority.

(2) Exceptions to proposed findings of fact, conclusions of law, and orders that are allowed by statute must be filed with MPERA and served upon opposing counsel within 20 days of service of the proposed findings, conclusions, and order. Any response must be filed within ten days of service of the exceptions.

(a) Briefs in support are not required, but if filed, must be filed simultaneously with exceptions or responses.

(b) Requests for oral argument must be in writing, and must be filed simultaneously with the exceptions or responses.

(c) Date of service shall be the date indicated on the appropriate certificate of service or certificate of mailing.

(d) The board may request briefing, additional briefing, or oral argument by the parties.

(e) The board's final decision must be issued no later than 90 days after the matter is submitted to the board, unless, for good cause shown, the period is extended for an additional time not to exceed 30 days.

(3) If a quorum of the board hears the contested case, the board may use a hearing examiner for procedural rulings and administrative purposes, and to assist in the drafting of a final order. A final order so adopted will be the final administrative decision of the board, subject only to judicial review.

(4) An attorney may be assigned to present a case or to appear in any contested case to represent the interests of MPERA. A different attorney will be assigned to assist the board in reaching its determinations with respect to that contested case.

(5) A contested case hearing, and any other proceeding before a hearing examiner, will be recorded electronically unless a party notifies the hearing examiner no later than 20 days prior to the proceeding that the party wants to retain a court reporter for the hearing. The party requesting the court reporter must arrange and pay for the court reporter.

(a) The record shall be transcribed on the request of any party. The cost of the transcription shall initially be paid by the requesting party. A party who has a transcript prepared shall provide a copy to any other party requesting it in exchange for the proportional cost of transcribing the original and the necessary copies. A copy must also be provided to the hearing examiner, at no cost.

(b) The party(ies) filing exceptions to the hearing examiner's proposed order must file the original and one copy of the transcript with the board only if exceptions have been filed to the hearing examiner's proposed findings of fact.

(c) If an electronic recording of any hearing or proceeding is defective or cannot be transcribed, the hearing examiner may reconstruct the record or the parties may reconstruct the record by stipulation. The record so reconstructed will constitute the record for determination and review of findings of fact. (History: 19-2-403, MCA; IMP, 19-2-403, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1994 MAR p. 2711, Eff. 10/14/94; AMD, 2003 MAR p. 972, Eff. 5/9/03; AMD & TRANS, from ARM 2.43.204, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.1503 REGULATIONS APPLICABLE TO CONTESTED CASES (1) To the extent these rules do not provide for or specify procedures, or where necessary to supplement these rules, the Montana Administrative Procedure Act, Montana Rules of Civil Procedure, Montana Uniform District Court Rules, or Montana Rules of Evidence may be utilized to the extent that they clarify fair procedures, expedite determinations, and assist in the adjudication of rights, duties, or privileges of parties. (History: 19-2-403, MCA; IMP, 19-2-403, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2003 MAR p. 972, Eff. 5/9/03; AMD & TRANS, from ARM 2.43.205, 2008 MAR p. 2467, Eff. 12/01/08.)

Subchapter 16 reserved

Sub-Chapter 17

Family Law Orders

2.43.1701 FAMILY LAW ORDERS – GENERAL REQUIREMENTS

(TRANSFERRED) (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 2002 MAR p. 2182, Eff. 8/16/02; AMD & TRANS, to ARM 2.43.3001, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1702 FAMILY LAW ORDERS FOR THE PERS DEFINED

CONTRIBUTION RETIREMENT PLAN (TRANSFERRED) (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, to ARM 2.43.3004, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1703 FAMILY LAW ORDERS – APPROVAL AND IMPLEMENTATION

FOR THE DEFINED CONTRIBUTION RETIREMENT PLAN (TRANSFERRED) (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 2002 MAR p. 2653, Eff. 9/27/02; AMD & TRANS, to ARM 2.43.3005, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1704 FAMILY LAW ORDERS – CONTENTS AND DURATION FOR

DEFINED BENEFIT PLANS (TRANSFERRED) (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 1993 MAR p. 2400, Eff. 10/15/93; AMD, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, from ARM 2.43.615, Eff. 9/30/02; AMD & TRANS, to ARM 2.43.3008, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1705 FAMILY LAW ORDERS – APPROVAL AND IMPLEMENTATION

FOR DEFINED BENEFIT PLANS (TRANSFERRED) (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 1993 MAR p. 2400, Eff. 10/15/93; AMD, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, from ARM 2.43.616, Eff. 9/30/02; TRANS, to ARM 2.43.3009, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 18

Deferred Compensation Plan

2.43.1801 ADOPTION OF DEFERRED COMPENSATION PLAN DOCUMENT AND TRUST AGREEMENT (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 1893, Eff. 7/12/02; AMD, 2005 MAR p. 1908, Eff. 10/7/05; TRANS, to ARM 2.43.5101, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1802 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 1893, Eff. 7/12/02; AMD, 2004 MAR p. 1132, Eff. 5/7/04; AMD, 2005 MAR p. 1908, Eff. 10/7/05; AMD, 2007 MAR p. 677, Eff. 5/25/07; AMD & TRANS, to ARM 2.43.5102, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1803 DEFERRED COMPENSATION PLAN INVESTMENT OPTIONS (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 1893, Eff. 7/12/02; AMD, 2004 MAR p. 1132, Eff. 5/7/04; AMD & TRANS, to ARM 2.43.5103, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1804 through 2.43.1809 reserved

2.43.1810 QUALIFIED DOMESTIC RELATIONS ORDERS – GENERAL REQUIREMENTS (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 2185, Eff. 8/16/02; AMD & TRANS, to ARM 2.43.5110, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1811 QUALIFIED DOMESTIC RELATIONS ORDERS – CONTENTS (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 2185, Eff. 8/16/02; AMD & TRANS, to ARM 2.43.5111, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1812 QUALIFIED DOMESTIC RELATIONS ORDERS – APPROVAL AND IMPLEMENTATION (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 2185, Eff. 8/16/02; AMD & TRANS, to ARM 2.43.5112, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapters 19 and 20 reserved

Sub-Chapter 17

Family Law Orders

2.43.1701 FAMILY LAW ORDERS – GENERAL REQUIREMENTS

(TRANSFERRED) (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 2002 MAR p. 2182, Eff. 8/16/02; AMD & TRANS, to ARM 2.43.3001, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1702 FAMILY LAW ORDERS FOR THE PERS DEFINED

CONTRIBUTION RETIREMENT PLAN (TRANSFERRED) (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, to ARM 2.43.3004, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1703 FAMILY LAW ORDERS – APPROVAL AND IMPLEMENTATION

FOR THE DEFINED CONTRIBUTION RETIREMENT PLAN (TRANSFERRED) (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 2002 MAR p. 2653, Eff. 9/27/02; AMD & TRANS, to ARM 2.43.3005, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1704 FAMILY LAW ORDERS – CONTENTS AND DURATION FOR

DEFINED BENEFIT PLANS (TRANSFERRED) (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 1993 MAR p. 2400, Eff. 10/15/93; AMD, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, from ARM 2.43.615, Eff. 9/30/02; AMD & TRANS, to ARM 2.43.3008, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1705 FAMILY LAW ORDERS – APPROVAL AND IMPLEMENTATION

FOR DEFINED BENEFIT PLANS (TRANSFERRED) (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 1993 MAR p. 2400, Eff. 10/15/93; AMD, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, from ARM 2.43.616, Eff. 9/30/02; TRANS, to ARM 2.43.3009, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 18

Deferred Compensation Plan

2.43.1801 ADOPTION OF DEFERRED COMPENSATION PLAN DOCUMENT AND TRUST AGREEMENT (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 1893, Eff. 7/12/02; AMD, 2005 MAR p. 1908, Eff. 10/7/05; TRANS, to ARM 2.43.5101, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1802 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 1893, Eff. 7/12/02; AMD, 2004 MAR p. 1132, Eff. 5/7/04; AMD, 2005 MAR p. 1908, Eff. 10/7/05; AMD, 2007 MAR p. 677, Eff. 5/25/07; AMD & TRANS, to ARM 2.43.5102, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1803 DEFERRED COMPENSATION PLAN INVESTMENT OPTIONS (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 1893, Eff. 7/12/02; AMD, 2004 MAR p. 1132, Eff. 5/7/04; AMD & TRANS, to ARM 2.43.5103, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.1804 through 2.43.1809 reserved

2.43.1810 QUALIFIED DOMESTIC RELATIONS ORDERS – GENERAL REQUIREMENTS (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 2185, Eff. 8/16/02; AMD & TRANS, to ARM 2.43.5110, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1811 QUALIFIED DOMESTIC RELATIONS ORDERS – CONTENTS (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 2185, Eff. 8/16/02; AMD & TRANS, to ARM 2.43.5111, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.1812 QUALIFIED DOMESTIC RELATIONS ORDERS – APPROVAL AND IMPLEMENTATION (TRANSFERRED) (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 2185, Eff. 8/16/02; AMD & TRANS, to ARM 2.43.5112, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapters 19 and 20 reserved

Subchapter 21

Membership Service and Service Credit

2.43.2101 MEMBERSHIP (1) An eligible employee becomes a member of a retirement system on his or her first day of covered employment under that system.

(2) If a member changes his or her name, the member must submit a name change form to MPERA.

(3) A member of PERS, GWPORS, or SRS who elects to purchase previously refunded service in their current system will increase their service credit but will not change first day of membership in their current retirement system. Therefore, their guaranteed annual benefit adjustment (GABA) eligibility date will not be affected.

(4) A member of MPORS or FURS who elects to purchase previously refunded service in their current system will increase their service credit but will not change their first day of membership in their current retirement system. Therefore, the formula used for calculating their retirement benefit will not be affected.

(5) A retirement system member's first day of membership service will not change due to any voluntary election to transfer service credit into that system from another system or to the purchase of any other full-time public service employment or military service. (History: 19-2-403, MCA; IMP, 19-2-303, 19-3-1605, 19-7-711, 19-8-1105, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, from ARM 2.43.405, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2240, Eff. 11/28/13.)

2.43.2102 OPTIONAL MEMBERSHIP (1) Employees for whom membership in PERS is optional may become members by completing an application provided by the board. The application must be filed within the time set in applicable statute. Membership becomes effective upon filing and is not retroactive except as provided in (5). Except as provided in (2), once elected, members may not discontinue membership without termination of employment.

(2) The board may permit an employee to discontinue optional membership if the employee submits proof that the employee was not informed membership was optional. The employee must submit such proof within 180 days of the employee's first day of employment, or within 180 days of the filing of the application form, whichever is later.

(a) Membership discontinued pursuant to (2) must be treated as a reporting error and will be corrected pursuant to ARM 2.43.2115.

(b) The board shall issue a credit to the employer for all erroneous contributions.

(c) The employer is responsible for refunding appropriate contributions to the employee.

(3) If an employer discovers that an eligible employee was not notified of the option to join PERS, the employer must:

(a) provide the employee the optional membership application form immediately upon discovery of the omission;

(b) notify the employee that the application must be completed within 180 days of employment, or within 30 days after receipt of the application, whichever is later; and

(c) notify MPERA of the omission and the employee's decision whether or not to join PERS.

(4) If, pursuant to (3), the employee elects not to become a member of PERS, the employer must still report the employee to MPERA as a nonmember pursuant to ARM 2.43.2114.

(5) If, pursuant to (3), the employee elects to become a member of PERS, membership will begin the first day of the first pay-period for which the employer reports the employee as a member of PERS and pays PERS contributions on behalf of the member. Membership will not be retroactive. However, a member electing the DBRP may choose to purchase the retroactive service under 19-3-505, MCA. (History: 19-2-403, MCA; IMP, 19-2-903, 19-3-412, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD, 2001 MAR p. 1834, Eff. 9/21/01; AMD & TRANS, from ARM 2.43.403, 2008 MAR p. 2467, Eff. 12/01/08.)

Rule 2.43.2103 reserved

2.43.2104 MEMBERSHIP CARDS (1) Each member must complete a membership form upon employment or change of beneficiary, and return the form to their employer. The form must be immediately forwarded by the employer to MPERA. The designation of beneficiary is only effective upon receipt by MPERA.

(2) If a member accepts a temporary or second job covered by the same retirement system as their other existing job, the member must:

- (a) indicate "temporary" or "dual employment" status on the form; and
- (b) leave the beneficiary nomination section blank unless the member intends to override their beneficiaries currently on file with MPERA. (History: 19-2-403, MCA; IMP, 19-2-801, 19-6-505, 19-9-1102, 19-13-903, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, from ARM 2.43.402, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2240, Eff. 11/28/13.)

2.43.2105 BASIC PERIOD OF SERVICE (1) The month is the basic period for the awarding of service credit and membership service for all retirement systems.

(a) Except as otherwise specified by rule or statute, 160 hours of service credit will equal one month of service credit, regardless of the calendar period during which the service credit was earned.

(b) Except as otherwise specified by rule or statute, 12 months of service credit will equal one year of service credit, regardless of the calendar period during which the service credit was earned.

(c) Service credit granted for any fiscal year may not be greater than one year.

(2) Except as provided in (3), service credit of less than 160 hours in a calendar month constitutes part-time service.

(3) If the regularly established work schedule of a full-time employee who works at least 2,080 nonovertime hours in a fiscal year results in their employer reporting the employee to the Montana Public Employee Retirement Administration as working less than 160 hours in any month or months during that fiscal year, the employee shall receive one year of service credit.

(4) Upon retirement, MPERA will adjust the service credit for members who work less than full time.

(a) For a member initially hired prior to July 1, 2011, the service earned during the member's normal work year will be the total service earned during the period of the "highest average compensation" or "final average compensation" divided by three.

(b) For a member initially hired on or after July 1, 2011, in a PERS, SRS, or GWPORS-covered position, the service earned during the member's normal work year will be the total service earned during the period of the "highest average compensation" divided by five.

(c) The member must be granted proportional service credit for each fiscal year of employment on the basis of the member's normal work year.

(d) The proportion will be equal to the number of documented hours for which compensation during a calendar month was reported for the employee, divided by the average number of hours worked each month during the period of the "highest average compensation" or "final average compensation" times 12, but may not be greater than 1. (History: 19-2-403, MCA; IMP, 19-2-701, 19-3-108, 19-3-904, 19-5-502, 19-6-502, 19-7-101, 19-7-503, 19-8-101, 19-8-603, 19-9-804, 19-13-704, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1987 MAR p. 1338, Eff. 8/14/87; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1997 MAR p. 1660, Eff. 9/23/97; AMD, 2001 MAR p. 2219, Eff. 11/9/01; AMD & TRANS, from ARM 2.43.406, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 643, Eff. 4/29/11; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.2106 NO DUPLICATION OF SERVICE CREDIT (1) A member employed in multiple jobs covered by the same retirement system during any given month may not earn more than one month service credit in that retirement system.

(2) A member employed in multiple jobs covered by different retirement systems will earn appropriate service credit in each system. (History: 19-2-403, MCA; IMP, 19-2-703, 19-2-715, 19-3-508, 19-6-302, 19-7-307, 19-8-305, 19-9-401, 19-13-401, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, from ARM 2.43.407, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.2107 and 2.43.2108 reserved

2.43.2109 RECEIPT OF SERVICE CREDIT ON OR AFTER TERMINATION OF EMPLOYMENT (1) A member terminating employment shall receive service credit for lump sum payments of severance pay or paid leave, including banked holiday time, vacation, personal, sick, or compensatory leave, received in the month following termination of employment unless the member elects to retire effective that month. No member can receive both service credit and a retirement benefit for the same month. (History: 19-2-403, MCA; IMP, 19-2-303, 19-3-108, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD, 2001 MAR p. 1834, Eff. 9/30/01; AMD & TRANS, from ARM 2.43.408, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.2110 CALCULATION OF HIGHEST AVERAGE COMPENSATION OR FINAL AVERAGE COMPENSATION WITH LUMP SUM PAYMENTS (1) Lump-sum payments made upon termination of employment for paid leave, including banked holiday time, vacation, personal, sick, or compensatory leave must be included in the calculation of a member's highest average compensation or final average compensation by replacing lower compensation months with the same number of higher compensation months. The number of replacement months and the amount of compensation included in the replacement months is determined by either:

- (a) dividing the lump-sum payment by the regular hourly rate in effect for the employee at the time of termination, or the monthly salary earned at the time of termination; or
- (b) for members whose monthly compensation varies, multiplying their hourly rate times 2,080 (the assumed number of hours worked in a fiscal year) divided by 12 to determine the monthly wage and then dividing the lump-sum payment by the monthly wage.

(2) Lump-sum payments made without termination of employment for banked holiday time, compensatory leave, sick leave, or vacation leave will not be considered as compensation for any purpose regardless how the payout is classified, including identifying the payout as a bonus. (History: 19-2-403, MCA; IMP, 19-2-303, 19-2-506, 19-2-1005, 19-3-108, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11; AMD, 2013 MAR p. 2235, Eff. 11/28/13.)

Rules 2.43.2111 through 2.43.2113 reserved

2.43.2114 REQUIRED EMPLOYER REPORTS (1) All reporting agencies shall file the following employer reports, for member and nonmember employees no later than five working days after each regularly occurring payday:

- (a) a contributing employee report;
- (b) a noncontributing employee report; and
- (c) a working retiree report, which includes:
 - (i) a PERS retiree performing work in a PERS-covered position as an employee, an independent contractor, or through a professional employer arrangement, an employee leasing arrangement, or a temporary service contractor. A working retiree returning to a PERS-covered position in other than employee status is defined as a "worker" for purposes of this rule;
 - (ii) a SRS retiree performing work in a SRS-covered position as an employee;
 - (iii) a FURS retiree performing work in a FURS-covered position as an employee.

(2) Each report must be accompanied by statutorily required employer and employee contributions to the appropriate retirement system as follows:

- (a) the contributing employee report requires employer and employee contributions;
- (b) the noncontributing employee report requires no contributions; and
- (c) the working retiree report requires employer contributions only.

(3) The required contribution rate is the rate in effect at the time the employees or workers are paid, and not the contribution rate in effect when the compensation was earned.

(4) Reporting agencies shall use MPERA's employer web reporting system and shall remit payment via automated clearing house (ACH).

(5) If the reporting agency does not have access to the Internet, the employer reports may be either hard-copy or electronic, but must be in the format provided by MPERA, and must be accompanied by the payment of all applicable contributions.

(a) Commencing July 1, 2013, MUS shall transmit to MPERA the 1.0% additional employer contribution provided for in Chapter 390, Laws of 2013.

(b) Commencing July 1, 2014, MUS shall also transmit to MPERA the 0.1% additional employer contribution provided for in Chapter 390, Laws of 2013.

(6) The report must be in alphabetical order by last name and contain for each employee or worker, regardless whether the employee or worker is a member of a MPERA-administered retirement system or not:

- (a) social security number;
 - (b) last and first name;
 - (c) salary;
 - (d) regular contributions, if any;
 - (e) service purchase contributions, if any;
 - (f) the actual hours for which the employee or worker received compensation;
- and
- (g) each employee or worker who terminated during the pay period being reported.

(7) In addition to the information contained in (6), employers must also provide the home addresses of employees and workers who are members of an MPERA-administered retirement system. Home addresses of nonmembers are not required.

(8) Reports filed by PERS employers must also include any state or local elected official.

(9) Reporting agencies of the Montana university system (MUS) shall report employees in PERS-covered positions who elect the MUS retirement program (MUS-RP). The MUS-RP report must include all information required in (6). At the same time, reporting agencies of the MUS shall transmit amounts equal to the statutorily required plan choice rate and the education fund rate for those employees.

(10) Delinquent reports are subject to a \$10 per day penalty fee, unless the board waives all or part of the penalty for good cause. Penalty fees shall be submitted separate from normal payroll reports. (History: 19-2-403, MCA; IMP, 19-2-506, 19-3-315, 19-3-316, 19-3-412, 19-3-1106, 19-3-1113, 19-3-2117, 19-7-1101, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2003 MAR p. 1186, Eff. 6/13/03; AMD, 2003 MAR p. 1981, Eff. 9/12/03; AMD & TRANS, from ARM 2.43.404, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11; AMD, 2013 MAR p. 830, Eff. 5/24/13; AMD, 2013 MAR p. 1519, Eff. 8/23/13; AMD, 2013 MAR p. 2070, Eff. 11/15/13; AMD, 2013 MAR p. 2237, Eff. 11/28/13.)

2.43.2115 CORRECTION OF DEFINED BENEFIT RETIREMENT SYSTEM REPORTING ERRORS (1) Employers may correct reporting errors affecting defined benefit retirement system members on subsequent pay period reports via a letter of explanation. The explanation must include all salary and service documentation for the reported error and the affected time period.

(2) After MPERA verifies that an error has been made in the contributions paid and the service reported, MPERA shall:

- (a) notify the reporting agency of any contributions and interest due;
- (b) credit any excess employer and member contributions to the employer on MPERA's payroll records; and
- (c) adjust the member's membership service and service credit to the correct amount.

(3) MPERA may waive interest if delinquent contributions are made within 60 days of the original due date.

(4) The board may reduce interest due on delinquent contributions if the reporting error was not timely identified by MPERA staff.

(5) Corrections reducing a defined benefit retirement system member's contribution cannot be accepted if the employee has received a refund.

(6) If the service related to the reporting error was initially reported to the wrong retirement system, MPERA shall:

(a) transfer the correct amount of employer and employee contributions from the original retirement system to the correct retirement system;

(b) credit the employer with any excess employer and employee contributions or collect from the employer and pay to the original retirement system any additional employer and employee contributions; and

(c) transfer the member's service credit and membership service to the correct retirement system.

(7) The employer must correct its payroll records and pay the refund to the DBRP participant. (History: 19-2-403, MCA; IMP, 19-2-403, 19-2-506, 19-2-903, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11; AMD, 2013 MAR p. 2236, Eff. 11/28/13.)

2.43.2116 CORRECTION OF DEFINED CONTRIBUTION RETIREMENT PLAN REPORTING ERRORS (1) Reporting errors affecting PERS members who elect the PERS defined contribution retirement plan (DCRP) will be corrected as follows:

(a) Corrections increasing a contribution will be credited to the participant's individual account within two working days of receipt of the contributions in good order.

(i) The employer must submit correct contributions for the entire period(s) of improper reporting.

(ii) The corrected contributions cannot be invested on a retroactive basis.

(iii) MPERA shall adjust the member's membership service to the correct amount, if necessary.

(b) Corrections reducing a contribution will decrease the participant's individual account.

(i) The DCRP recordkeeper will recover the incorrect contribution from the participant's individual account and submit a refund to MPERA.

(ii) MPERA shall credit the employer's account with the recovered contribution.

(iii) The employer must correct its payroll records and pay the refund to the DCRP participant.

(iv) MPERA shall adjust the member's membership service, if necessary.

(2) Reporting errors that result in a defined benefit retirement system member improperly electing to participate in the DCRP require the following accounting transactions:

(a) all funds from the ineligible member's DCRP account must be transferred to the member's appropriate defined benefit retirement system trust fund;

(b) the portion of employer contributions allocated to the plan choice rate must be transferred to the DBRP trust fund;

(c) the portion of employer contributions paid into the DCRP long-term disability trust fund must be transferred to the DBRP trust fund; and

(d) the portion of employer contributions paid into the DCRP education fund must be transferred to:

(i) the defined benefit education fund, if a PERS member; or

(ii) the member's appropriate DBRP trust fund, if not a PERS member.

(3) Reporting errors that result in a Montana University System Retirement Program (MUS-RP) member improperly electing to participate in the DCRP will be corrected by allocating contributions pursuant to 19-21-214, MCA.

(4) Corrections reducing a DCRP participant's contribution cannot be accepted if the participant has received a refund.

(5) After MPERA has documented to its satisfaction that all corrections have been made to the DCRP, MPERA shall then make any necessary corrections to the applicable defined benefit retirement system pursuant to ARM 2.43.2115. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-2-403, 19-2-903, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2237, Eff. 11/28/13.)

Rules 2.43.2117 through 2.43.2119 reserved

2.43.2120 REINSTATEMENT -- CREDIT FOR LOST TIME (1) An inactive member whose service was involuntarily terminated and who is later returned to employment as the result of a suit, court order, arbitration, or out-of-court settlement may petition the board for membership service and service credit to be granted for the period of time lost, provided the member is awarded retroactive compensation as a result of the claim.

(2) An involuntarily terminated member who retires prior to being returned to employment as the result of a suit, court order, arbitration, or out-of-court settlement and who is awarded retroactive compensation as a result of the claim may petition the board for membership service and service credit to be granted for the period of time lost, provided the member repays all retirement benefits, plus the actuarially assumed rate of interest.

(3) In order to receive full membership service and service credit, employee and employer contributions must be paid by the employer on the total compensation the member would have received, including any interim earnings. Proportional service credit will be granted if employee and employer contributions are paid on a lesser amount of compensation. Any statutorily required state contributions must also be received.

(4) Lump-sum awards not considered compensation under state and federal tax laws will not be considered compensation for the purposes of this rule. (History: 19-2-403, MCA; IMP, 19-2-303, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1997 MAR p. 1660, Eff. 9/23/97; AMD & TRANS, from ARM 2.43.427, 2008 MAR p. 2474, Eff. 11/27/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11; AMD, 2013 MAR p. 2240, Eff. 11/28/13.)

Subchapter 22

Reporting Qualified Plan Compensation

2.43.2201 TREATING SALARY DEFERRALS UNDER A CAFETERIA PLAN AS COMPENSATION – POLICY AND OBJECTIVES (1) Pursuant to 19-2-1010, MCA, the public employees' retirement board (board) must administer the retirement systems under its purview "in a manner required to satisfy the applicable qualification requirements for a qualified governmental plan, as provided in the internal revenue code." The board has received favorable determination letters from the internal revenue service indicating that the retirement systems it administers have met this requirement and are qualified governmental plans under Internal Revenue Code (IRC) sections 401(a) and 414(d).

(2) The board's primary objective is to maintain the qualified status of the retirement systems it administers. In order to meet this objective, the board must comply with the IRC when determining what constitutes compensation. (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; TRANS, from ARM 2.43.901, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.2202 TREATING SALARY DEFERRALS UNDER A CAFETERIA PLAN AS COMPENSATION – APPLICABILITY (1) This subchapter applies when considering whether a salary deferral permitted under an employer's cafeteria plan should be considered compensation for any of the board-administered retirement systems. (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; TRANS, from ARM 2.43.902, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.2203 and 2.43.2204 reserved

2.43.2205 TREATING SALARY DEFERRALS UNDER A CAFETERIA PLAN AS COMPENSATION – BACKGROUND (1) Pretax deductions allowed by state and federal law are included in compensation as that term is defined in the following statutes:

- (a) 19-3-108, MCA (PERS);
- (b) 19-5-101, MCA (JRS);
- (c) 19-6-101, MCA (HPORS);
- (d) 19-7-101, MCA (SRS);
- (e) 19-8-101, MCA (GWPORS);
- (f) 19-9-104, MCA (MPORS); and
- (g) 19-13-104, MCA (FURS).

(2) Under federal law, pretax deductions that may be included in the definition of compensation include elective contributions under an IRC section 125 cafeteria plan, but only to the extent the amounts would be includible in gross income but for IRC section 125(a). See IRC section 415.

(3) The board is required to administer PERS, JRS, HPORS, SRS, GWPORS, MPORS, and FURS in a manner required to satisfy the applicable qualification requirements for a qualified governmental plan, as provided in the IRC. Therefore, the board adopts this subchapter to ensure that only elective contributions that would be includible in gross income but for the fact they were made under a bona fide cafeteria plan under IRC section 125 will be included as compensation for purposes of PERS, JRS, HPORS, SRS, GWPORS, MPORS, and FURS. (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; AMD & TRANS, from ARM 2.43.905, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.2206 through 2.43.2208 reserved

2.43.2209 PROCEDURES – COMPENSATION MUST BE TREATED CONSISTENTLY (1) If an employer increases a member's compensation to account for health, dental, vision, life or disability costs, the amount of the increase can be included in compensation for retirement system purposes only if the employer includes that amount, to the extent required by applicable federal and state law, in its calculation of the member's compensation for all purposes, including, but not limited to:

- (a) federal income taxes;
- (b) state income taxes;
- (c) Federal Insurance Contribution Act (FICA);
- (d) state unemployment insurance;
- (e) overtime under the Fair Labor Standards Act (FLSA);
- (f) overtime under Montana's Wage Protection Act;
- (g) shift differentials;
- (h) workers' compensation; and
- (i) benefits based on compensation, such as life or disability benefits based on a multiple or percentage of annual pay.

(2) If the employer does not comply with (1), the board will not consider the amount as an elective contribution under a cafeteria plan that would be includible in gross income but for IRC section 125, and will not include the increase as compensation for purposes of PERS, JRS, HPORS, SRS, GWPORS, MPORS, and FURS.

(3) If the board has any reason to doubt that the employer is complying with (1), the board has the right to obtain documentation up to and including an audit of any participating employer to ensure compliance with (1). If compliance with (1) cannot be verified by the board, the participating employer's 125 plan contribution will not be considered compensation for retirement system purposes. (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; TRANS, from ARM 2.43.909, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.2210 PROCEDURES – PLANS THAT OFFER A CHOICE AMONG NONTAXABLE BENEFITS ONLY (1) If an employer has a plan or program under which it contributes on behalf of its employees a certain dollar amount, which can be used by the employee to purchase optional nontaxable benefits, but there is no ability for the employee to receive the employer contribution in cash or other taxable benefit, the board will not consider the employer contribution an elective contribution under a cafeteria plan that would be includible in gross income but for IRC section 125, and will not include the employer contribution as compensation for purposes of PERS, JRS, HPORS, SRS, GWPORS, MPORS, and FURS. (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; TRANS, from ARM 2.43.910, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.2211 PROCEDURES – BONA FIDE CAFETERIA PLANS (1) Elective employee contributions must be made to a bona fide cafeteria plan for that contribution to be eligible for treatment as compensation for purposes of PERS, JRS, HPORS, SRS, GWPORS, MPORS, and FURS.

(2) To be a bona fide cafeteria plan, the employer must establish and sponsor a written plan that includes the requirements of IRC section 125 outlined in (3) through (12). The cafeteria plan must also be operated in compliance with the requirements of IRC section 125 outlined in (3) through (12). The board may, from time to time, review an employer's cafeteria plan documentation and require that an employer certify or provide evidence to the board that its cafeteria plan has been operating in compliance with IRC section 125.

(3) The written plan document must incorporate all of the operating rules prescribed in IRC section 125 and its regulations and must be formally adopted by the employer before the first day of the first plan year of the cafeteria plan.

(4) The written cafeteria plan document must contain operating rules covering each of the following topics:

- (a) a description of benefits available under the plan;
 - (b) eligibility rules;
 - (c) how the plan is funded and the maximum amount of employer and employee contributions;
 - (d) the plan year;
 - (e) timing of participant elections and how elections are made; and
 - (f) irrevocability of participant elections.
- (5) All participants in the cafeteria plan must be employees.
- (a) Self-employed individuals cannot participate in the cafeteria plan; and
 - (b) Independent contractors cannot participate in the cafeteria plan.
- (6) The cafeteria plan must allow participants to choose among two or more benefits consisting of cash and qualified benefits.
- (7) Under an affirmative election, the employee must be permitted to elect, on an annual basis, whether to purchase qualified benefits under the cafeteria plan.
- (8) Under a mandatory election, the cafeteria plan can mandate that, if an employee chooses a certain benefit, he must pay for it on a pretax basis; however, the employer cannot mandate both that the employee choose the benefit and that he pay for it on a pretax basis under the cafeteria plan.
- (9) Under a waiver, an employee will be deemed to have elected qualified benefits under the cafeteria plan unless the employee signs a waiver, on an annual basis, of those benefits under the cafeteria plan.

(10) The cafeteria plan may offer only qualified benefits as defined under IRC section 125(f).

(a) Qualified benefits include:

(i) benefits that do not defer the receipt of compensation and are not included in gross income by reason of an express provision in chapter I of the IRC, including:

(A) coverage under an accident or health plan to the extent the coverage is excludable from income under IRC section 106 (including medical expense reimbursement accounts);

(B) group term life insurance excluded under IRC section 79; and

(C) benefits under a dependent care assistance program excluded under IRC section 129;

(ii) vacation days;

(iii) contributions to a 401(k) plan; and

(iv) adoption assistance excluded under IRC section 137.

(b) Qualified benefits do not include:

(i) fringe benefits governed by IRC section 132 (such as pretax parking and qualified employee discounts);

(ii) scholarships under IRC section 117;

(iii) educational assistance programs under IRC section 127; and

(iv) long-term care insurance.

(11) Elections made under the cafeteria plan must be irrevocable for an entire plan year, except to the extent mid-year election changes are permitted under IRC section 125 and its regulations.

(12) The cafeteria plan must satisfy the nondiscrimination requirements of IRC section 125. (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; TRANS, from ARM 2.43.911, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.2212 and 2.43.2213 reserved

2.43.2214 IMPLEMENTATION AND COMPLIANCE (1) A participating employer must demonstrate compliance with this subchapter as follows:

(a) The employer must submit to the board a copy of the employer's IRC section 125 plan document and the salary reduction or election form that must be completed by the employees wishing to participate.

(b) The salary reduction or election form must be the document that will be used for the enrollment period that precedes the next IRC section 125 plan year.

(c) The open enrollment period must be specifically identified in the material provided to the participating employer's employees and in the material provided to the board.

(d) Once compliance has been demonstrated, the employer must verify on an annual basis that its IRC section 125 plan document and election form have not changed. If either document does change, the new document or election form must be submitted to the board.

(2) If an employer fails to provide the IRC section 125 plan document, the salary reduction or election form in a format that complies with this subchapter, or fails to use the salary reduction or election form during the enrollment period, then compensation for that employer shall not include the IRC section 125 plan's salary reduction amount.

(3) Board policy number BOARD Admin 05 titled "Treating Salary Deferrals Under a Cafeteria Plan as Compensation" contains several examples of both valid and invalid cafeteria plans, elections, and waivers and should be referenced for further guidance. (History: 19-2-403, MCA; IMP, 19-2-1001, 19-2-1005, 19-2-1010, 19-3-108, 19-5-101, 19-6-101, 19-7-101, 19-8-101, 19-9-104, 19-13-104, MCA; NEW, 2005 MAR p. 2241, Eff. 11/11/05; AMD & TRANS, from ARM 2.43.914, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2240, Eff. 11/28/13.)

Subchapter 23

Service Purchases

2.43.2301 PROCESS FOR PURCHASING SERVICE (1) Members of MPERA-administered retirement systems interested in purchasing any service credit permitted in PERS, JRS, HPORS, SRS, GWPORS, MPORS, or FURS must submit a written request to MPERA providing the following member information:

- (a) full name, including previous surnames, if any;
- (b) social security number;
- (c) home address;
- (d) current retirement system;
- (e) name of employer for whom service was performed;
- (f) type of service to be purchased, if known;
- (g) dates of service to be purchased, if applicable; and
- (h) number of years of "one-for-five" service to be purchased, if applicable.

(2) MPERA shall provide written notification to the member of the type and amount of service eligible to be purchased, and the cost of that service. All cost statements are valid for 30 days. Written notification will include:

- (a) cost statement;
- (b) service purchase contract;
- (c) payroll deduction authorization form; and
- (d) rollover/transfer notification form.

(3) A member who chooses to purchase service must complete and return the service purchase contract and the applicable payment form to MPERA. The service purchase contract must indicate:

- (a) the type of service the member wishes to purchase;
- (b) whether the member intends to purchase all, or a specific portion of the service; and
- (c) how the member intends to pay for the service.

(4) Service can be purchased in a lump sum, through monthly payments, or by a combination of both. Service purchases other than by lump sum are subject to interest as determined by MPERA and computed over the entire payment period.

(5) Lump-sum payment methods include cash, personal check, and direct rollovers or trustee-to-trustee transfers from an eligible retirement plan.

(a) Lump-sum payments by cash or personal check require completion of the service purchase contract only.

(b) Payment by direct rollover or trustee-to-trustee transfers from an eligible retirement plan require completion of the service purchase contract and the rollover/transfer notification.

(6) Monthly installment payments can be made after tax through cash or personal check, or pretax through payroll deductions.

(a) Monthly installment payments that come directly from the member to MPERA require completion of the service purchase contract only.

(b) Monthly installment payments through paycheck deduction require completion of the service purchase contract and the payroll deduction authorization.

(7) If a monthly installment payment made through cash or personal check is missed, the service purchase contract will terminate and the member will receive prorated service credit based on the amount previously paid.

(8) The type of service being purchased cannot be changed once the purchase commences. (History: 19-2-403, MCA; IMP, 19-2-303(22), 19-2-704, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.2302 DOCUMENTATION OF SERVICE (1) MPERA shall use employer certified records of employment to correct employer reports and to calculate the cost of service credit granted to members.

(2) If employer records are missing or alleged to be inaccurate, it shall be the member's responsibility to provide acceptable documentation to the board that proves the amount of service earned and salary paid to the member by the employer during the period in question.

(3) For the purposes of (2), the board will consider other documents, including but not limited to:

- (a) pay stubs;
- (b) copies of logs, time sheets, or other documents required to be kept by the employee for the employer;
- (c) union agreement(s) in effect for the time period in question;
- (d) any other binding agreement or contract in effect at that time;
- (e) certified copy of a court order or out-of-court settlement agreement;
- (f) social security records;
- (g) W-2s; or
- (h) other notarized or official documents which would support the member's claim.

(4) If the board approves a request for correction of employer records or a request to purchase service, membership service and service credit will be granted only after payment of required contributions, plus interest, into the retirement system. (History: 19-2-403, MCA; IMP, 19-2-704, 19-3-315, 19-3-316, 19-5-402, 19-5-404, 19-6-402, 19-6-404, 19-7-403, 19-7-404, 19-8-502, 19-8-504, 19-9-703, 19-9-710, 19-13-601, 19-13-605, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, from ARM 2.43.410, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.2303 DOCUMENTATION OF AMOUNT OF SERVICE ELIGIBLE TO BE PURCHASED (1) When military, U.S. government, federal volunteer, Montana public employment, or other public employment related service is eligible to be purchased into a retirement system, the member is responsible for ensuring acceptable documentation is provided to MPERA.

(2) The documents submitted must be sufficient to prove to MPERA that the service is eligible to be purchased by the member.

(a) Documents used to prove military or federal volunteer service must include:

(i) military service records, including DD 214s, verified by the appropriate branch of service;

(ii) Peace Corps service records verified by the appropriate federal service agency; or

(iii) national service position records verified by the corporation for national and community service.

(b) Documents used to prove U.S. government, Montana public employment, or other public employment must include employer certification of:

(i) dates of employment, full- or part-time employment status, monthly hours of employment, compensation received, date and amount of refund, and current membership status; and

(ii) if the member was employed before the employer contracted to a public retirement system, the name of the public retirement system and the date the employer contracted to join that system, if applicable.

(c) If employer certified salary and employment documentation is not available from the employer, or if the member contests the certified documents, the member may petition the board to purchase the service based upon acceptable documentation listed in ARM 2.43.2302.

(3) MPERA shall review the documents presented to determine whether the service qualifies to be purchased. If the service can be purchased, MPERA will then calculate the cost of the service. (History: 19-2-403, MCA; IMP, 19-2-715, 19-3-503, 19-3-505, 19-3-510, 19-3-512, 19-3-515, 19-6-801, 19-6-803, 19-7-803, 19-8-901, 19-8-903, 19-9-403, 19-13-403, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 2003 MAR p. 1982, Eff. 9/12/03; AMD & TRANS, from ARM 2.43.423, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2240, Eff. 11/28/13.)

2.43.2304 PURCHASE OF SERVICE AT ACTUARIAL COST (1) Members of an MPERA-administered retirement system who are eligible to and wish to purchase military, federal volunteer, one-for-five, out-of-state, Montana public service, or other public service from a previous retirement system to their current retirement system must pay the actuarial cost of that service.

(2) The actuarial cost of the service is determined as follows:

(a) The member's age and membership service as of the date of the request, each rounded to the nearest whole year, is used to determine the actuarial factor related to the number of years service to be purchased.

(b) The actuarial factor determined in (2)(a) is then multiplied by the member's compensation for the immediately preceding 12 months to determine the cost of the service to be purchased.

(3) A member of a retirement system is eligible to purchase only that service permitted to be purchased by statute. (History: 19-2-403, MCA; IMP, 19-2-704, MCA; NEW, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.2305 through 2.43.2307 reserved

2.43.2308 MOST RECENT SERVICE PURCHASED FIRST (1) When purchasing only a portion of a member's eligible military, federal volunteer, refunded, Montana public service, or other full-time public service, the member must first purchase the most recent service.

(2) A member who has refunded service more than once must purchase the most recent refund first.

(3) When purchasing or transferring a portion of a member's service credit from another retirement system, the member must first purchase the most recent service.

(4) When purchasing a portion of a member's retroactive service, the member must first purchase the most recent retroactive service. (History: 19-2-403, MCA; IMP, 19-2-704, 19-2-715, 19-3-503, 19-3-505, 19-3-512, 19-3-515, 19-6-801, 19-6-803, 19-7-803, 19-8-901, 19-9-403, 19-13-403, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1982, Eff. 9/12/03; AMD & TRANS, from ARM 2.43.422, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.2309 SERVICE PURCHASES BY INACTIVE VESTED MEMBERS

(1) An inactive vested member may purchase any service for which the member is eligible any time prior to retirement.

(2) The inactive vested member's most recent termination date will be considered the purchase request date for all service purchases other than refunded service, which is addressed in 19-2-603, MCA.

(a) The actuarial cost of the service purchase will be determined based on the member's age at the time of the purchase and the member's salary at the time of the member's most recent termination.

(b) Interest, compounded monthly, will be charged from the member's most recent termination date to when the member completes payment for the cost of the purchase:

(i) for members terminated prior to July 1, 2010, at an effective annual rate of 8% per year; and

(ii) for members terminated on or after July 1, 2010, at an effective annual rate of 7.75% per year.

(3) An inactive vested member who purchases service may not elect a retirement date prior to the date the service purchase is completed. (History: 19-2-403, MCA; IMP, 19-2-603, 19-2-715, 19-2-908, 19-3-401, 19-5-301, 19-6-301, 19-7-301, 19-8-301, 19-9-301, 19-13-301, MCA; NEW, 1995 MAR p. 2386, Eff. 11/10/95; AMD & TRANS, from ARM 2.43.440, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.2310 PURCHASE OF FULL-TIME SERVICE OR ONE-FOR-FIVE SERVICE BY PART-TIME MEMBERS (1) When a member employed on a part-time basis is eligible to purchase periods of full-time service or one-for-five service, the compensation used to calculate the cost to purchase the full-time or one-for-five service will be the actual part-time compensation earned.

(2) If the member later retires with a full-time final average compensation or highest average compensation, the member may either:

(a) have the amount of full-time service purchased under (1) proportionally reduced based upon the ratio of time worked when the service was purchased to full-time work; or

(b) retain the full-time service by paying the difference between the cost actually paid and the cost had the member been paid a full-time salary at the time of the purchase, plus interest:

(i) for members who purchased the service prior to July 1, 2010, at a rate of 8%; and

(ii) for members who purchased the service on or after July 1, 2010, at a rate of 7.75%. (History: 19-2-403, MCA; IMP, 19-2-704, 19-2-715, MCA; NEW, 1990 MAR p. 994A, Eff. 7/1/90; AMD & TRANS, from ARM 2.43.433, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.2311 LIMITATIONS ON PURCHASES OF SERVICE (1) A PERS member may not purchase service unless and until the member elects to participate in the PERS Defined Benefit Retirement Plan.

(2) A retirement system member may not purchase the same period of military, federal volunteer service, or public service employment in more than one retirement system.

(3) A retirement system member may not receive service credit for any purchase of service related to any calendar month for which full service credit has already been granted. (History: 19-2-403, MCA; IMP, 19-2-603, 19-2-715, 19-3-503, 19-3-515, 19-3-522, 19-5-410, 19-6-801, 19-7-803, 19-8-901, 19-9-403, 19-13-403, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.2312 PURCHASE OF SERVICE THROUGH DIRECT TRUSTEE-TO-TRUSTEE TRANSFER OF FUNDS (1) Subject to (2), any time prior to retirement, a member who is statutorily eligible to do so may purchase service in the member's current retirement system through a rollover of funds from an eligible retirement plan account belonging to the member or a direct trustee-to-trustee transfer of funds from the member's 26 USC 403(b) tax-sheltered annuity or 26 USC 457 governmental plan.

(2) A direct trustee-to-trustee transfer of funds from the member's 26 USC 403(b) tax-sheltered annuity or 26 USC 457 governmental plan prior to the member's severance from employment can be made only if the transfer is either for the purchase of permissive service credit (as defined in section 415(n)(3)(A) of the Internal Revenue Code) under the receiving defined benefit governmental plan or a repayment to which section 415 of the Code does not apply by reason of section 415(k)(3) of the Code. A purchase of service pursuant to 19-3-513, 19-5-409, 19-6-804, 19-7-804, 19-8-904, 19-9-411, or 19-13-405, MCA, is a purchase of permissive service credit. (History: 19-2-403, 19-2-1010, 19-3-2104, MCA; IMP, 19-2-704, 19-3-2113, 19-3-2115, MCA; NEW, 2002 MAR p. 1889, Eff. 7/12/02; AMD, 2003 MAR p. 1800, Eff. 8/15/03; AMD, 2005 MAR p. 913, Eff. 6/17/05; AMD, 2008 MAR p. 117, Eff. 2/1/08; TRANS, from ARM 2.43.441, 2009 MAR p. 78, Eff. 12/01/08.)

Rule 2.43.2313 reserved

2.43.2314 ELIGIBLE FEDERAL VOLUNTEER SERVICE (1) Federal volunteer service eligible to be purchased into a member's PERS account is limited to:

- (a) any documented period of service in the Peace Corps; and
- (b) any documented, successfully completed required term of service in the following National and Community Service Act (NCSA) programs:
 - (i) AmeriCorps VISTA;
 - (ii) AmeriCorps National Community Conservation Corps; or
 - (iii) any other NCSA program that requires the volunteer to enroll for a specific term of service.

(2) Federal volunteer service eligible to be purchased into a member's PERS account does not include NCSA programs such as:

- (a) Freedom Corps;
- (b) Senior Corps;
- (c) Learn and Serve America; or
- (d) any other NCSA program for which a specific term of service is not required. (History: 19-2-403, MCA; IMP, 19-3-515, MCA; NEW, 2003 MAR p. 1982, Eff. 9/12/03; TRANS, from ARM 2.43.442, 2009 MAR p. 78, Eff. 12/01/08.)

2.43.2315 CREDIT FOR SERVICE IN THE UNIFORMED SERVICES (1) If an actively employed member of PERS, JRS, HPORS, SRS, GWPORS, MPORS, or FURS is called to duty for a period or periods of service in the uniformed services, the member may receive service credit and membership service within the member's retirement system for that time, provided the member:

(a) remains a member of the retirement system during the period of service in the uniformed services by leaving his or her accumulated contributions on deposit;

(b) complies with the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994, commonly known as USERRA or the Montana Military Service Employment Rights Act (MMSERA);

(c) complies with all Code of Federal Regulations implementing USERRA or all administrative rules implementing MMSERA; and

(d) is reemployed pursuant to USERRA or MMSERA.

(2) The member must complete payment of the member's contributions for the uniformed services related absence within three times the period of the member's uniformed service, starting upon return to employment, but not to exceed five years.

(3) The member may pay the employee contributions:

(a) on a pretax basis pursuant to 19-2-704, MCA;

(b) in a lump sum, including a direct transfer from an eligible retirement plan or individual retirement account;

(c) through installments on a posttax basis; or

(d) any combination of (3)(a), (b), and (c).

(4) If the member pays the employee's contributions, the member's employer must pay the employer's contributions. Employer contributions may be due from the member's local government employer and the state.

(5) The member's, the employer's, and the state's contributions are determined based on the compensation the member would have received had the member not been called to uniformed services duty. No interest is charged on their respective contributions.

(6) A member making contributions under a service purchase contract at the time he or she is called to service in the uniformed services will have their payments suspended by MPERA until return to employment as required under USERRA or MMSERA.

(7) For purposes of this rule, service in the uniformed services is any service covered by USERRA or by MMSERA, including:

(a) service in the Army, Navy, Marine Corps, Air Force, Coast Guard, or Public Health Service Commissioned Corps;

(b) service in the reserve components of each of the services listed in (7)(a);

(c) service in the Army National Guard or the Air National Guard; and

(d) service in the Montana National Guard.

(8) For purposes of this rule, service includes:

- (a) active duty;
- (b) active duty for training;
- (c) inactive duty for training;
- (d) initial active duty training; and
- (e) any period of time during which a member is absent from employment for the purpose of an examination to determine fitness to perform any of the above-listed duties.

(9) If the member dies while engaged in USERRA or MMSERA service, the balance of the service credit remaining to be purchased may be made from the member's estate, subject to the limitations of section 415 of the Internal Revenue Code.

(10) Regardless any provisions of state law to the contrary, the board will administer this rule in accordance with USERRA, and the federal department of labor regulations regarding USERRA. (History: 19-2-403, MCA; IMP, 19-2-704, 19-2-707, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2004 MAR p. 561, Eff. 3/12/04; AMD & TRANS, from ARM 2.43.421, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.2316 RESERVE MILITARY SERVICE (1) The following requirements pertain to the purchase of membership service and service credit for the member's reserve military service in the armed forces, including the Army National Guard and the Air National Guard:

(a) The member may not purchase any more reserve military service for a one year period than the amount of reserve military service that, when combined with all other earned or purchased service for that one year period, does not exceed one year of service credit. The reserve military service cannot be purchased if the member has received service credit for the same time period.

(b) The member may purchase reserve military service even if that period of service may be, or is, used to determine the member's right to, or amount of, military service retired pay under federal law, as provided by Title 10, chapter 1223 of the United States Code.

(c) The member may purchase reserve military time prior to separation from service in the reserves.

(2) The purchase of service pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994, commonly known as USERRA or the Montana Military Service Employment Rights Act is addressed in ARM 2.43.2315. (History: 19-2-403, MCA; IMP, 19-3-503, 19-5-410, 19-6-801, 19-7-803, 19-8-901, 19-9-403, 19-13-403, MCA; NEW, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD, 2000 MAR p. 70, Eff. 1/14/00; AMD, 2004 MAR p. 563, Eff. 3/12/04; AMD & TRANS, from ARM 2.43.437, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.2317 PURCHASE OF REFUNDED SERVICE OR SERVICE FROM ANOTHER MPERA-ADMINISTERED RETIREMENT SYSTEM (1) At any time prior to retirement, a member who is statutorily eligible to do so may:

(a) elect to purchase into their current retirement system all or any portion of their previously refunded service in that system; or

(b) elect to purchase service from another MPERA-administered retirement system for which the member has received or is eligible to receive a refund.

(2) Section (1)(b) shall not be construed to allow the purchase of service between two retirement systems while the individual is a member of both systems.

(3) In order to purchase the service, an eligible member must file a request to purchase service with MPERA identifying, in writing, the system to which the member currently contributes and the period of employment which is to be purchased.

(4) After reviewing the information in its files, MPERA shall notify the member of the amount of service eligible to be purchased and the cost of that service.

(History: 19-2-403, MCA; IMP, 19-2-704, 19-2-709, 19-2-710, 19-2-715, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD & TRANS, from ARM 2.43.420, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.2318 "ONE-FOR-FIVE" ADDITIONAL SERVICE (1) Subject to the requirements of each retirement system, a vested member may purchase additional service credit. Members may purchase one full year of additional service for each five full years of membership service in the retirement system. A member eligible to purchase additional service may purchase months of service totaling 11 months or less.

(2) The board will include a member's additional service when calculating the amount of a benefit, but not for determining early or service retirement eligibility, except in the following cases:

(a) additional service purchased into PERS is required to be included when determining a member's early retirement reduction factor; and

(b) additional service purchased into SRS is required to be used when determining a member's retirement eligibility.

(3) A retired member who returns to active membership in the system from which they retired may purchase one-for-five service after at least 12 months of active service. The amount of one-for-five service which may be purchased will be based on the member's total membership service in the member's current retirement system. (History: 19-2-403, MCA; IMP, 19-3-513, 19-3-902, 19-3-904, 19-3-906, 19-5-409, 19-6-804, 19-7-804, 19-8-904, 19-9-411, 19-13-405, MCA; NEW, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1991 MAR p. 510, Eff. 4/26/91; AMD, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 1995 MAR p. 1033, Eff. 6/16/95; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD & TRANS, from ARM 2.43.432, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2238, Eff. 11/28/13.)

2.43.2319 PURCHASE OF "ONE-FOR-FIVE" SERVICE BY EMPLOYERS FOR REDUCTION IN FORCE EMPLOYEES (1) Members who are subject to a reduction in force and wish to apply for additional service under 19-2-706, MCA, must do so on forms provided by MPERA prior to involuntary termination from covered employment.

(2) MPERA will review the application and the member's file to determine the number of years of additional service a member is eligible to purchase and the required employer contributions for the purchase. MPERA may request any additional information it deems necessary from the employer or the member to complete this review.

(3) After review, MPERA will send the application to the employer to certify the following data:

- (a) termination date;
- (b) reason for termination (voluntary, reduction in force, or other);
- (c) whether the member has taken advantage of other benefits provided as an alternative to this program; and
- (d) whether the position was eliminated or reclassified.

(4) After receiving the requested certified information, MPERA will formally review and approve the request, if appropriate.

(5) The cost of the one-for-five service will be based on the member's final 12 months of salary, ending with the last full month of service. When calculating the cost for a member working part-time but whose final average compensation or highest average compensation will be based on full-time service, the final 12-month salary will be proportionally adjusted.

(6) A cost statement for the employer's portion of the cost of the one-for-five service will be sent to the member's former employer after the member terminates. The employer may pay the amount in full within one month of billing, or may select an installment plan of no more than ten years duration. Installment plans will include interest compounded monthly:

(i) for members terminated prior to July 1, 2010, at an effective annual rate of 8%; and

(ii) for members terminated on or after July 1, 2010, at an effective annual rate of 7.75%.

(7) Employers who chose the installment plan option must make annual payments no later than June of each year.

(a) MPERA will provide early payoff or pay down figures at the request of an employer.

(b) If the employer prepays on the installment plan, MPERA will recalculate the interest due following each payment, based on the remaining balance due. Prepayments will not relieve the employer of the obligation to make the next installment payment unless the amount owing is paid in full.

(8) The member will be billed for his or her portion of the cost of the one-for-five service. (History: 19-2-403, MCA; IMP, 19-2-706, MCA; NEW, 1993 MAR p. 2008, Eff. 8/27/93; AMD, 1995 MAR p. 1320, Eff. 7/14/95; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD & TRANS, from ARM 2.43.451, 2008 MAR p. 2467, Eff. 12/1/08, AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

Rules 2.43.2320 through 2.43.2322 reserved

2.43.2323 SERVICE CREDIT FOR PERIOD(S) OF ABSENCE DUE TO ILLNESS OR INJURY (1) A member of PERS, HPORS, or GWPORS whose absence from service is compensated by workers' compensation, and who elects to leave their accumulated contributions on deposit with the retirement system during that absence, may elect to purchase up to five years of the period of absence for service credit.

(2) No service credit will be granted to the member until the total contributions due are deposited into the system. (History: 19-2-403, MCA; IMP, 19-3-504, 19-6-810, 19-8-905, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, from ARM 2.43.424, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.2324 GUARANTEED ANNUAL BENEFIT ADJUSTMENT COVERAGE

(1) Defined benefit members who terminate covered employment, accept a refund of their accumulated contributions, and return to covered employment in the same system, will be eligible for the GABA provisions in effect at the time the member returns to covered employment.

(2) Purchase of the refunded time does not affect the member's new hire date. The member will remain eligible for the GABA provisions then in effect, not the GABA associated with the refunded time. (History: 19-2-403, MCA; IMP, 19-2-603, 19-3-1605, 19-6-712, 19-7-711, 19-8-1105, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2238, Eff. 11/28/13.)

Subchapters 24 and 25 reserved

Subchapter 26

Applying for Retirement – Service or Disability

2.43.2601 APPLICATION PROCESS FOR SERVICE RETIREMENT (1) In order to receive the first retirement benefit in a timely manner, prospective retirees must request an estimate of retirement benefits no less than 30 days prior to a member's anticipated retirement date.

(2) The request must include the retiring member's:

(a) full name;

(b) social security number;

(c) mailing address;

(d) date of birth;

(e) name, social security number, and date of birth of beneficiary, if any;

(f) name, social security number, and date of birth of contingent annuitant(s), if any; and

(g) anticipated date of retirement.

(3) Upon request, MPERA will calculate retirement benefit estimates for the eligible retiring member and their contingent annuitant(s) under any options which are statutorily available and will mail those estimates along with complete retirement information and an application for service retirement to the member.

(4) Based on the retirement estimates and information provided by MPERA, the member may elect whether to retire and if so, the statutorily-allowed retirement option the member prefers. A member wishing to retire must return a signed retirement application to MPERA, along with certified copies of the member's and the member's contingent annuitant's birth certificates or other acceptable proof of age, before benefits will be paid.

(5) The option factors used in the calculation of the option 2 or option 3 retirement benefit pursuant to ARM 2.43.1306 will be based on the nearest whole ages of the member and contingent annuitant.

(6) Retirement applications must be received by the 14th of any month in order for the initial retirement benefit to be paid that month. (History: 19-2-403, MCA; IMP, 19-2-403, 19-2-801, 19-3-1210, 19-3-1501, 19-5-701, 19-5-802, 19-6-903, 19-7-503, 19-7-1001, 19-8-801, 19-8-1002, 19-9-1102, 19-13-903, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, from ARM 2.43.503, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.2602 APPLICATION PROCESS FOR DISABILITY BENEFITS (1) All forms necessary to apply for disability benefits may be obtained from MPERA.

(2) The following forms must be completed and submitted to MPERA before the board will act on the application for disability benefits:

- (a) application for disability retirement and summary of disability;
- (b) job duty questionnaire for disability retirement completed by the employer;
- (c) attending physician's statement, including all medical records required to substantiate a disability claim;
- (d) authorization to release information; and
- (e) a Health Insurance Portability and Accountability Act (HIPAA) authorization.

(3) The requesting party may provide additional medical information for consideration until 21 days prior to the next scheduled board meeting or, if different, the board meeting at which the request will be considered.

(4) The employer of the disability benefit applicant must define the essential elements of the member's position and show reasonable accommodation was attempted for the member's disabling condition(s) in compliance with the Americans with Disabilities Act (ADA), statutes and rules.

(5) "Total inability" for purposes of determining disability means the member is unable to perform the essential elements of the member's job duties even with reasonable accommodation required by the ADA. (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-2-406, 19-3-1002, 19-3-2141, 19-5-601, 19-6-601, 19-7-601, 19-8-701, 19-9-902, 19-13-802, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1994 MAR p. 291, Eff. 2/11/94; AMD, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.502, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2236, Eff. 11/28/13.)

2.43.2603 ACCEPTABLE PROOF OF DATE OF BIRTH (1) A certified copy of a birth certificate or state birth registration shall be proof of the date of birth for the purpose of completing an application for retirement benefits.

(2) If a birth certificate or state birth registration is not available, the board will accept a driver's license and one of the following as proof of date of birth:

- (a) baptismal record;
- (b) selective service record;
- (c) armed forces discharge;
- (d) passport;
- (e) school record;
- (f) tribal identification or registration;
- (g) naturalization record;
- (h) alien registration record; or
- (i) other records submitted by the member which are acceptable to MPERA.

(3) If the birth certificate is in a language other than English, MPERA may request one of the alternative means of identification listed in (2). (History: 19-2-403, MCA; IMP, 19-2-403, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, from ARM 2.43.504, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.2604 through 2.43.2606 reserved

2.43.2607 PAYMENT OF ESTIMATED BENEFITS (1) MPERA shall pay estimated retirement benefits to qualified members for up to three months. To qualify for estimated retirement benefits, a member must submit an application for early or normal service retirement, terminate active service, and meet retirement age and membership service requirements.

(2) MPERA shall pay estimated disability retirement benefits for up to three months to members granted disability retirement status by the board.

(3) The first benefit will be payable the last working day of the month in which the benefit began. Future benefits will be payable the last working day of each succeeding month.

(4) MPERA shall obtain from the employer all documentation necessary to determine the member's total service credit and final compensation and calculate the amount of the member's retirement benefit. The member's retirement application shall be submitted to the board for approval at the next meeting after MPERA finalizes the benefit amount.

(5) Estimated retirement benefits will be suspended after three months if the member's retirement application has not been finalized by MPERA and approved by the board. Monthly benefit payments to the member will not resume until after the board approves the retirement application. The first payment following board approval will include any previously suspended payments and retroactive amounts owed the member.

(a) If more than 225 retirement applications are received for members wishing to retire on a specific date, estimated retirement benefits for those retirees may be paid for up to five months prior to suspension under (4).

(6) Once a member has received and accepted a retirement benefit, the member is no longer entitled to a refund of the member's accumulated contributions. (History: 19-2-403, MCA; IMP, 19-2-403, 19-2-502, 19-2-901, MCA; NEW, 1994 MAR p. 3182, Eff. 12/23/94; AMD & TRANS, from ARM 2.43.617, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 830, Eff. 5/24/13.)

2.43.2608 RETURN TO COVERED EMPLOYMENT BY PERS, SRS, OR FURS RETIREE – REPORT (1) An employer who pays for work performed by a retired PERS member in a position covered by PERS or in "employment covered by the retirement system" as specified in 19-3-1106, MCA, must submit a certification to MPERA for each payroll period during which the work is performed.

(a) This certification requirement does not apply to a PERS retiree who is elected to a state or local public office and chooses to not become an active member of PERS.

(b) The PERS certification must contain information for every position held by the PERS retiree, whether the position is covered by PERS or not.

(2) An employer who employs a retired SRS member in a position covered by SRS must submit a certification to MPERA for each payroll period during which a retired SRS member is employed.

(3) An employer who employs a retired FURS member in a position covered by FURS must submit a certification to MPERA for each payroll period during which a retired FURS member is employed.

(4) The certification must include the following information for each individual referred to in (1) through (3):

- (a) name and social security number;
- (b) pay period being certified;
- (c) name and address of employer;
- (d) the daily and total number of regular, overtime, holiday, sick leave, and vacation or annual leave hours worked for the employer;
- (e) compensation received from the employer; and
- (f) the employer's verification that the employer provided the working retiree with the information submitted to MPERA.

(5) The employer must submit the certification by filing it with MPERA no later than ten working days after each regularly occurring payday for which working retirees are reported pursuant to ARM 2.43.2114. The certification must be submitted electronically using MPERA's employer web reporting system.

(6) A separate certification must be filed with MPERA for each working retiree.

(7) Delinquent reports are subject to a \$10 per day penalty fee unless the board waives all or part of the penalty for good cause. Penalty fees shall be submitted separate from normal payroll reports. (History: 19-2-403, 19-3-1113, MCA; IMP, 19-2-506, 19-3-1104, 19-3-1106, 19-7-1101, 19-13-301, MCA; NEW, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1991 MAR p. 2216, Eff. 11/15/91; AMD, 2003 MAR p. 1981, Eff. 9/12/03; AMD & TRANS, from ARM 2.43.506, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11; AMD, 2011 MAR p. 2515, Eff. 11/26/11; AMD, 2013 MAR p. 830, Eff. 5/24/13. AMD, 2013 MAR p. 1519, Eff. 8/23/13.)

2.43.2609 RETURN TO EMPLOYMENT WITHIN SAME JURISDICTION

(1) A PERS, GWPORS, SRS, FURS, or HPORS member who receives additional service under 19-2-706, MCA, may again be employed within the same jurisdiction provided the member does not work for more than 960 hours in a calendar year in any position covered by a retirement system administered by MPERA.

(a) A retired member must terminate employment and receive at least one monthly retirement benefit before returning to active service.

(b) An inactive member may return to active service within the same jurisdiction after a five-day break in service.

(2) A retired member who returns to employment as a working retiree must notify the board and ensure a working retiree report is filed with MPERA for each payroll period worked. Service performed under a contract that fails the tests set out in ARM 2.43.1302 is employment subject to the 960-hour limitation and reporting requirements.

(3) When a member who has returned to work under (1) exceeds 960 hours in a calendar year, the member forfeits the additional service attributable to the contributions paid by the employer. Pursuant to 19-2-706, MCA, the board will credit the member's employer with the employer's contribution for the additional service that exceeds the proportional amount of retirement benefits related to the additional service purchased under 19-2-706, MCA, and paid to the member from retirement to forfeiture.

(a) If the employer paid the contributions owed MPERA in a lump sum, the employer will be credited with the difference between contributions paid and benefits received;

(b) If the employer is paying the contributions owed MPERA on an installment contract and the total retirement benefits received by the member:

(i) do not exceed the amount that has been paid on the installment contract, the employer will be credited with the difference between contributions paid and benefits received;

(ii) exceed the amount that has been paid on the installment contract but not the total amount due on the installment contract, the employer will be required to continue paying on the installment contract until the amount paid equals the retirement benefits received. Any outstanding balance due on the installment contract will continue to be charged interest at the actuarially assumed rate of interest, compounded monthly.

(c) If the total benefits received by the member exceed the total contributions owed by the employer, no adjustment will be made to the employer's contributions.

(4) Additional service purchased by the member pursuant to 19-2-706(4), MCA, is not forfeited. (History: 19-2-403, MCA; IMP, 19-2-706, MCA; NEW, 1993 MAR p. 2008, Eff. 8/27/93; AMD, 1993 MAR p. 2762, Eff. 11/25/93; AMD, 1995 MAR p. 1320, Eff. 7/14/95; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD, 2001 MAR p. 1834, Eff. 9/21/01; AMD & TRANS, from ARM 2.43.452, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11; AMD, 2013 MAR p. 2236, Eff. 11/28/13.)

2.43.2610 DESIGNATION OF BENEFICIARY BY RETIREES, ALTERNATE PAYEES, AND CONTINGENT ANNUITANTS (1) A retiree, alternate payee, or contingent annuitant shall make the selection of beneficiary in writing and on the form provided by MPERA, dated and signed by the individual participant, and witnessed by a disinterested third party.

(2) The designation of beneficiary shall be effective immediately upon filing with MPERA. (History: 19-2-403, MCA; IMP, 19-2-801, 19-2-907, 19-3-1501, 19-5-701, 19-7-1001, 19-8-1105, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.2611 RETURN TO COVERED EMPLOYMENT BY PERS RETIREE – LESS THAN 90 DAYS SINCE TERMINATION OF EMPLOYMENT (1) A retired PERS member who returns to PERS-covered employment of any type less than 90 days following termination of employment is no longer a retired PERS member and is no longer eligible to receive a retirement benefit.

(a) The member's retirement benefit will be stopped effective the month the member returns to PERS-covered employment.

(b) The member will become an active PERS member, ineligible to receive a PERS retirement benefit. (History: 19-2-403, MCA; IMP, 19-3-1106, MCA; NEW, 2011 MAR p. 2515, Eff. 11/26/11.)

2.43.2612 RETURN TO COVERED EMPLOYMENT BY PERS RETIREE – EARNINGS LIMITATIONS (1) If a retired PERS member returns to a position covered by PERS and is also currently employed by the same employer in one or more positions not covered by PERS, the earnings attributable to all positions with the employer must be used to determine whether the retired member's retirement benefit must be reduced pursuant to 19-3-1106, MCA.

(2) The PERS retirement benefit of a working retiree under 65 years of age who exceeds 960 hours of PERS-covered employment in a calendar year must be reduced by earnings attributable to all positions with the employer.

(3) The PERS retirement benefit of a working retiree 65 years of age and older but less than 70 1/2 years of age, who either exceeds 960 hours of PERS-covered employment or whose benefit and all earnings listed in (1) exceed the member's highest average compensation, whichever provides the higher compensation, must be reduced by earnings attributable to all positions with the employer. (History: 19-2-403, MCA; IMP, 19-3-1106, MCA; NEW, 2011 MAR p. 2515, Eff. 11/26/11.)

Subchapter 27

Disability Retirement – Medical Reviews

2.43.2701 PERIODIC MEDICAL REVIEW OF DISABILITY BENEFIT

RECIPIENTS (1) The medical status of each member receiving a disability benefit will be reviewed annually by the board to determine whether the member continues to be disabled, unless:

- (a) the board determines reviews are unnecessary and may be discontinued;
- (b) the board determines more frequent reviews are warranted by the nature of the disability;
- (c) the board converts the disability retirement benefit of a participant in the defined benefit retirement plan to a service retirement benefit; or
- (d) a participant in the defined contribution retirement plan receiving a disability benefit reaches 65 years of age. (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-2-408, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.508, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.2702 PERIODIC MEDICAL REVIEW OF DISABILITY BENEFIT

RECIPIENTS – INITIAL NOTICE TO MEMBER (1) MPERA will send written notification of medical review to a member receiving a disability benefit which is subject to periodic review. The notice will be sent to the member at the most recent address provided and will inform the member of the date by which medical information and records must be filed.

(2) The member will be required to have the results of a current medical examination filed directly with MPERA by the examining medical authority(ies) within 60 calendar days of initial notification. The medical examination must be performed by the member's treating physician or other competent medical authority. To be considered current, the date of a medical examination must be no earlier than six months prior to the date filed with MPERA. (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1995 MAR p. 206, Eff. 2/10/95; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.509, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.2703 PERIODIC REVIEW OF MEDICAL EVIDENCE – NOTICE OF ADDITIONAL EVIDENCE REQUIRED (1) The board's medical consultant and disability claims examiner will review all medical records previously submitted and those requested for the current period and submit interpretations and recommendations as to the current disability status of the member.

(2) If MPERA determines the records submitted by the member's treating physician in response to the initial notice of review are not current or are otherwise inadequate to complete a review, MPERA will send written notice to the member of the specific examinations, diagnoses, or tests necessary for adequate review of the disabling condition. When appropriate, the type of medical authority to conduct the necessary tests or examination will be specified or a particular physician may be appointed to conduct the required examinations or tests.

(3) Any medical tests requested under this rule will be paid for by MPERA.

(4) Members will be reimbursed for travel necessary to obtain the MPERA-required examinations or tests. Reimbursement for lodging, meals, and mileage will be at the rates established for state employees in Title 2, chapter 18, MCA.

(5) The member will be allowed 60 days from the date of notification to complete the required examinations or tests and have the results sent directly to MPERA by the examining physician.

(6) If the member chooses not to provide additional medical evidence administratively determined as necessary, the previous medical evidence filed will be presented to the board along with staff recommendations regarding continuing disability of the member. (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-2-406, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.510, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 p. 1678, Eff. 8/26/11.)

2.43.2704 FAILURE TO RESPOND – SECOND NOTICE (1) A member who fails to file all medical information as required in the initial notice will be sent a second notice by certified mail, return receipt requested. The second notice will inform the member of:

(a) their failure to submit current medical information and records required by the board for the review; and

(b) the date on which disability benefits will be suspended if the member does not provide the medical evidence.

(2) The member may request an extension to accommodate scheduled appointments. The written request justifying the need for additional time must be filed with MPERA at least 15 days prior to the end of the time period. Any requests for extensions in excess of 30 days will not be approved. (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.511, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.2705 SUSPENSION OF DISABILITY BENEFITS – NOTICE (1) If the member fails to respond appropriately to the second notice, the MPERA will notify the member, by certified mail, return receipt requested, that disability benefits have been suspended.

(2) The suspension notice will also inform the member that:

(a) the disability benefit will be cancelled if the previously noticed medical reports and information are not provided to the MPERA within 30 days from the date of notice;

(b) deductions from benefits for insurance premiums paid to an employer-sponsored health insurance plan, if any, will continue to be paid on the member's behalf until such time as the board cancels the benefits; and

(c) disability benefits will not be restored until such time as the board determines the member has demonstrated continuous disability. (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, from ARM 2.43.512, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.2706 CANCELLATION OF DISABILITY BENEFITS FOR REFUSAL TO COMPLY – NOTICE (1) Failure to appropriately respond to the notice of suspension will be deemed refusal to submit to a medical review and cause for cancellation of the disability benefit. The member will be notified of the effective date of cancellation of benefits by certified mail, return receipt requested.

(2) The effective date of cancellation will be the first day of the month following the date of the cancellation notice.

(3) The notice of cancellation will inform the member of appeal rights under the board's rules for contested cases and any rights for service retirement benefits or distribution of the member's DCRP individual account, or for requesting termination of membership from the retirement system. (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1995 MAR p. 206, Eff. 2/10/95; AMD, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, from ARM 2.43.513, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.2707 CANCELLATION OF DISABILITY BENEFITS DUE TO CHANGE OF MEDICAL STATUS (1) If the board determines the medical information available, including that provided by the member, does not demonstrate continuing disability, the monthly disability benefit will be cancelled.

(2) The effective date of cancellation for members of PERS and JRS and elected officials of SRS will be the first day of the second month following board action. For example, board action on January 28 to cancel disability benefits would result in cancellation of the March benefit.

(3) Except in the case of a member of JRS or an elected official in PERS or SRS, the member's former employer will be notified of the member's eligibility for reinstatement to service. (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 1995 MAR p. 206, Eff. 2/10/95; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.514, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.2708 through 2.43.2710 reserved

2.43.2711 APPEAL OF CANCELLATION OF BENEFITS (1) A member may appeal the cancellation of disability benefits only by requesting an administrative hearing (contested case) in writing within 30 days of the date of written notice of cancellation. (History: 19-2-403, 19-3-2104, 19-3-2141, MCA; IMP, 19-3-1015, 19-3-2141, 19-5-612, 19-6-612, 19-7-612, 19-8-712, 19-9-904, 19-13-804, MCA; NEW, 1994 MAR p. 2106, Eff. 7/8/94; AMD, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.515, 2008 MAR p. 2467, Eff. 12/01/08.)

Subchapter 28 reserved

Subchapter 29

Refunds, Distributions, and Adjustments

2.43.2901 REFUNDS TO MEMBERS (1) Any contributing member who has terminated employment for any reason other than death or retirement may elect to withdraw their accumulated contributions provided:

(a) the member makes written request within three months of termination on the most recent application provided by MPERA;

(b) the refund application is completed by the member and forwarded to MPERA;

(c) the contribution and service credit from the report on which the member last appears is credited to the member's account;

(d) the employer's report indicates the member has terminated;

(e) the member will not return to covered employment for at least 30 days; and

(f) the member does not have an established agreement for reemployment in a position covered by the retirement system providing the refund.

(2) Correctly completed and submitted refund applications will be processed within three weeks after the member's final contributions are credited to the member's account, including termination payments of sick and annual leave.

(3) No partial refunds of normal contributions will be made. (History: 19-2-403, MCA; IMP, 19-2-303, 19-2-602, 19-5-403, 19-6-403, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD & TRANS, from ARM 2.43.603, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11; AMD, 2013 MAR p. 2240, Eff. 11/28/13.)

2.43.2902 DEATH PAYMENTS, SURVIVOR BENEFITS, AND OPTIONAL RETIREMENT BENEFITS (1) Upon the death of an active or inactive member, the member's designated beneficiary or statutory beneficiary must submit a certified copy of the member's death certificate and a completed death claim form to MPERA.

(2) Upon the death of a retired member receiving an option 1 benefit, the member's designated beneficiary, or personal representative if no designated beneficiary, must submit a certified copy of the member's death certificate. Completed death claim forms may be required if there are multiple designated beneficiaries or a lump sum payment remains.

(3) Upon the death of a retired member receiving an option 2, 3, or 4 benefit, a contingent annuitant must submit a certified copy of the member's death certificate to MPERA. Once the death certificate is filed with MPERA, the missed payments, if any, will be paid.

(4) If all designated or statutory beneficiaries predecease the member, the member's personal representative or next of kin as defined in 19-2-802, MCA, must submit the required documents.

(5) If all designated or statutory beneficiaries renounce their interest in their payment rights, a contingent beneficiary or other identified payment recipient may submit the required documents.

(6) Upon receipt of the required documents, MPERA will advise the beneficiary or contingent annuitant of the benefits available.

(7) Contact MPERA to obtain a death claim form. (History: 19-2-403, MCA; IMP, 19-2-801, 19-3-1201, 19-5-801, 19-5-802, 19-6-901, 19-6-902, 19-6-903, 19-7-901, 19-8-1001, 19-8-1002, 19-8-1003, 19-9-1101, 19-9-1102, 19-13-902, 19-13-903, MCA; Eff. 12/31/72; AMD, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2001 MAR p. 1834, Eff. 9/21/01; AMD & TRANS, from ARM 2.43.604, 2008 MAR p. 2467, Eff. 12/01/08; AMD, 2013 MAR p. 830, Eff. 5/24/13.)

2.43.2903 PAYMENT TO AN ESTATE (1) Payment due to an estate will be made upon receipt of a certified copy of a personal representative's letters testamentary or letters of administration. MPERA will also make payment to an estate upon receipt of certified documentation recognized in Title 72, MCA, as proof that payment to an estate should be made. (History: 19-2-403, MCA; IMP, 19-2-802, 19-9-1102, 19-13-903, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, from ARM 2.43.607, 2008 MAR p. 2467, Eff. 12/01/08.)

Subchapter 30

Family Law Orders

2.43.3001 FAMILY LAW ORDERS – GENERAL REQUIREMENTS

(1) Upon request, MPERA will provide a checklist of mandatory and optional family law order (FLO) provisions.

(2) Information concerning a participant's account will only be released subject to the terms of ARM 2.43.1405, and policies adopted by MPERA and the board.

(3) An account cannot be established for an alternate payee in a retirement system or plan.

(4) A FLO may not force a member to:

- (a) terminate employment;
- (b) retire from employment; or
- (c) belong to a specific retirement system or plan.

(5) Upon receipt of a certified copy of a stay from the issuing court or the Montana Supreme Court, MPERA and the board will suspend further consideration or implementation of a proposed FLO. Unless otherwise directed by court order, MPERA will retain payments withheld prior to receipt of the stay and simultaneously resume making payments of participant's full benefit. MPERA will take further action only on receipt of a certified copy of an order directing such action. If the stay is lifted, MPERA will proceed with consideration, approval, and implementation procedures.

(6) A restraining order may be used to temporarily stop or prohibit payment to a participant. The order must contain the same information identifying the participant and alternate payee as required for a FLO. If a proposed FLO is not received before the order expires, payments will resume and any retained payments will be made to the participant.

(7) The administrative cost, if any, of a FLO will be billed to the party filing the proposed FLO with the board, unless another party is designated in the FLO to pay the cost. Amounts owing may be offset against payments to be received by the appropriate party.

(8) An alternate payee may receive monthly benefit payments by electronic fund transfer upon submission of a properly executed form required by MPERA.

(9) An alternate payee must promptly inform MPERA of any change of name or address. (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 2002 MAR p. 2182, Eff. 8/16/02; AMD & TRANS, from ARM 2.43.1701, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

Rules 2.43.3002 and 2.43.3003 reserved

2.43.3004 FAMILY LAW ORDERS FOR THE PERS DEFINED CONTRIBUTION RETIREMENT PLAN (1) This rule applies only to the DCRP.

(2) A "participant" may be a member or a "primary" or "contingent beneficiary."

(3) Disability benefits under the defined contribution plan may not be divided by a FLO.

(4) In the PERS defined contribution retirement plan, the payments to an alternate payee are allowed as follows:

(a) The FLO must state the amount or the proportion, or it must describe the method for calculating the amount or proportion.

(b) If the participant is not eligible for a distribution of their account, the alternate payee's amount or proportion must be paid as soon as administratively feasible.

(c) If the participant is receiving or is eligible to receive distributions from their account, the alternate payees' amount or proportion must be paid from the distributions as set out in the applicable family law order.

(d) The fixed amount, the designated monthly dollar amount, the designated number of months, and the proportion may not be changed by future conditions or events.

(e) Payments will end when:

(i) payments to the participant end;

(ii) the fixed amount is paid; or

(iii) the account is depleted. (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, from ARM 2.43.1702, 2009 MAR p. 78, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.3005 FAMILY LAW ORDERS – APPROVAL AND IMPLEMENTATION FOR THE DEFINED CONTRIBUTION RETIREMENT PLAN (1) This rule applies only to the DCRP.

(2) A participant or alternate payee must submit a certified copy of a family law order (FLO) to MPERA for board approval. The board has delegated authority for approval to the executive director.

(3) MPERA will notify the participant and the alternate payee when it receives a certified copy of a FLO. The notice will explain the procedures for determining if the FLO can be approved.

(4) While reviewing the FLO, MPERA will work with the record keeper to prevent distributions from the participant's account and to segregate the amounts, and earnings thereon, that will be owed to the alternate payee if the FLO is approved. The participant will remain eligible to manage and invest the funds not owed to the alternate payee.

(5) The segregated amount, with any earnings thereon, will be distributed to the participant if the FLO is not approved within 18 months of the date it was received by MPERA and the participant is entitled to and requests distribution of the account.

(6) MPERA will notify the participant and the alternate payee when the FLO is approved.

(7) The FLO will be applied prospectively if approved more than 18 months after the date it was first received by MPERA. (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 2002 MAR p. 2653, Eff. 9/27/02; AMD & TRANS, from ARM 2.43.1703, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

Rules 2.43.3006 and 2.43.3007 reserved

2.43.3008 FAMILY LAW ORDERS – CONTENTS AND DURATION FOR DEFINED BENEFIT PLANS (1) Pursuant to this rule and ARM 2.43.3009, the board will accept and apply family law orders (FLOs) in the PERS DBRP, and the JRS, SRS, GWPORS, HPORS, MPORS, and FURS.

(2) Specific designations of a participant(s) in a FLO may include:

(a) for all systems and plans listed in (1), an individual "member" (active, inactive, or retired);

(b) for the PERS DBRP, or JRS, SRS, and GWPORS, "primary" and "contingent beneficiaries" eligible to receive a lump sum payment and "contingent annuitants"; and

(c) for HPORS, MPORS, and FURS, "survivors" and "designated beneficiaries" who are eligible to receive lump sum payments.

(3) A FLO may specify a future effective date provided:

(a) a FLO may not be effective any earlier than the date the FLO is received by MPERA;

(b) if the participant is a benefit recipient, the first monthly benefit payment that may be divided is the first benefit payment following the month MPERA receives the FLO; and

(c) a FLO may not provide for payments to an alternate payee prior to the date on which the participant first receives a payment from the retirement system or plan.

(4) Unless otherwise specified in the FLO, payments to an alternate payee will continue only while the participant is receiving payments. The FLO may further limit payments to:

(a) the life of the participant whose payment rights are being transferred;

(b) a specified maximum time;

(c) the life of the alternate payee; or

(d) the life of a designated participant.

(5) The two basic types of payments allowed to alternate payees are:

(a) A "defined sum" must designate a specific total dollar amount to be paid to the alternate payee in the form of a fixed dollar amount payable for a designated maximum number of months. If the fixed monthly payment designated is more than the total monthly benefit or payment to the participant, the lesser amount will be paid until the alternate payee receives the specific total dollar amount. If the defined sum cannot be divided evenly by the number of payments or monthly amount, any odd amount will be paid in the first payment. The defined sum, the designated monthly dollar amount, and the designated number of months will not be increased by subsequent conditions or events. Payments will cease when the defined sum is paid or when payments from the account end.

(b) A FLO may order "proportionate payments" by designating either a fixed percentage or a formula describing how to calculate the percentage. The fixed percentage must be expressed as a specific percentage or as a fraction for which the numerator and denominator are indicated. A formula calculating a fixed percentage may use months, years, or dollar amounts to establish a proportionate benefit. (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-907, MCA; NEW, 1993 MAR p. 2400, Eff. 10/15/93; AMD, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, from ARM 2.43.615, Eff. 9/30/02; AMD & TRANS, from ARM 2.43.1704, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2240, Eff. 11/28/13.)

2.43.3009 FAMILY LAW ORDERS – APPROVAL AND IMPLEMENTATION FOR DEFINED BENEFIT PLANS

(1) A participant or alternate payee must submit a certified copy of a family law order (FLO) to the MPERA for board approval. The board has delegated authority for approval to the executive director of MPERA.

(2) All FLOs must be applied prospectively and may only allocate future payments. However, a FLO may include procedures for collecting retroactive amounts from future payments.

(3) For purposes of allocating a lump sum payment, the FLO must be received before the payment is mailed or otherwise conveyed to the participant.

(4) If a member requests a refund, the MPERA will notify the alternate payee. The alternate payee may request a direct payment or a direct rollover to another eligible plan. Within 60 days of the date of notification, the alternate payee must inform MPERA of his or her choice and if necessary, provide MPERA with any information necessary for a rollover. Otherwise a direct payment will be made to the alternate payee after 60 days.

(5) Beginning on the effective date, payments to the participant, if any, will be adjusted as directed in the FLO and payments to the alternate payee(s), if any, will be retained by the MPERA. If the proposed FLO is approved, retained payments will be paid to the alternate payee(s); if not approved, to the participant.

(6) The board's decision to approve or not approve a FLO is final unless the participant or alternate payee files a request for an administrative contested case hearing within ten days from the date the MPERA sends notice of the decision. If an administrative hearing is properly requested, the board must make the final administrative decision after receiving the hearing examiner's proposed decision. (History: 19-2-403, 19-2-907, MCA; IMP, 19-2-303(18), 19-2-907, MCA; NEW, 1993 MAR p. 2400, Eff. 10/15/93; AMD, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, from ARM 2.43.616, Eff. 9/30/02; TRANS, from ARM 2.43.1705, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

Subchapters 31 through 33 reserved

Subchapter 34

PERS – Elected Officials

2.43.3401 RETIREMENT OPTIONS FOR ELECTED OFFICIALS OTHER THAN LEGISLATORS (1) Any elected or appointed official, other than a legislator, who becomes a member of PERS pursuant to 19-3-412, MCA, will receive service credit based upon the number of the member's compensated hours. Per diem or other benefits are not compensation.

(2) A retired PERS member who is elected or appointed to a state or local government public office covered by PERS may elect to become an active member of PERS or remain a retired member, with no limitation on the number of hours worked in the elected or appointed position.

(3) An active PERS member who is elected or appointed to a local government public office and works less than 960 hours a year in the elected position may decline membership in PERS with respect to the elected or appointed position.

(4) A PERS DBRP member who elects to purchase into PERS previous service as an elected or appointed official must comply with 19-3-505, MCA, except the cost will not include interest for any contributions due on service prior to July 1, 1993. (History: 19-2-403, MCA; IMP, 19-2-701, 19-2-702, 19-3-412, 19-3-1106, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1990 MAR p. 994A, Eff. 7/1/90; AMD, 1993 MAR p. 1199, Eff. 7/1/93; AMD, 1995 MAR p. 1319, Eff. 7/14/95; AMD, 1999 MAR p. 1504, Eff. 7/2/99; AMD, 2003 MAR p. 1981, Eff. 9/12/03; AMD & TRANS, from ARM 2.43.418, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.3402 RETIREMENT SYSTEM MEMBERSHIP OPTIONS FOR LEGISLATORS (1) A legislator has three options with respect to retirement system membership.

(a) A legislator may elect membership in PERS.

(b) A legislator who is a member, but not a retiree, of JRS, GWPORS, HPORS, SRS, MPORS, or FURS due to their nonlegislative employment may elect to continue participation in their current public retirement system rather than electing PERS.

(c) A legislator may decline membership in any public retirement system.

(2) A legislator's application to join PERS, to join their existing public retirement system, or to decline retirement system membership must be filed with MPERA within 90 days of the first day of the legislator's term of office.

(3) A retired PERS member who is elected to a state or local government public office covered by PERS may elect to become an active member of PERS or remain a retired member, with no limitation on the number of hours worked in the elected position.

(4) A legislator who becomes a member of PERS must pay regular contributions on all compensation for service in office. PERS DBRP members may pay contributions for their entire term of office.

(a) Contributions must be paid through payroll deduction during a legislative session.

(b) Contributions for DBRP members may be paid directly to MPERA when the Legislature is not in session.

(c) The total contribution required for each term will be based on the statutory salary prescribed in 5-2-301, MCA, for that term, less any previous contributions.

(d) All contributions must be paid to MPERA no later than the last day of the legislator's final term in that office.

(e) Service credit and membership service will be granted pursuant to 19-3-521, MCA.

(5) A legislator who elects to continue participation in their nonlegislative retirement system pursuant to (1)(b):

(a) must pay contributions into their nonlegislative retirement system as provided for in 5-2-304, MCA; and

(b) may not retire from that system until their legislative service terminates.

(6) A senator who is subsequently elected to serve as a representative, or a representative who is subsequently elected to serve as a senator, is considered to have started a new term of office and has a new 90-day election period under (1) if they previously declined participation in any public service retirement system.

(7) A senator or representative whose district changes as a result of redistricting is not considered to have started a new term of office and does not have a new 90-day election period.

(8) A PERS DBRP member who elects to purchase into PERS previous service as a legislator must comply with 19-3-505, MCA, except the cost will not include interest for any contributions due on service prior to July 1, 1993.

(9) A PERS DCRP member cannot purchase noncompensated legislative service into the DCRP as service purchases are not available in the DCRP plan. (History: 19-2-403, MCA; IMP, 5-2-304, 19-2-715, 19-3-412, 19-3-521, 19-3-522, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.3403 INVOLUNTARY RETIREMENT (1) If an elected official, including a legislator, chooses not to run, runs for another office that is not covered by that retirement system, or is otherwise removed from office for cause, that official shall not be eligible for an involuntary retirement allowance. (History: 19-2-403, MCA; IMP, 19-2-706, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 1991 MAR p. 2216, Eff. 11/15/91; AMD & TRANS, from ARM 2.43.505, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 35

PERS – DCRP

2.43.3501 ADOPTION OF DEFINED CONTRIBUTION PLAN DOCUMENT AND TRUST AGREEMENT (1) The board adopts and incorporates by reference the following:

(a) State of Montana Public Employee Defined Contribution Plan Document (August 2015 edition) that was approved by the board on August 13, 2015, and describes the terms and conditions related to the operation and administration of the plan; and

(b) State of Montana Public Employee Defined Contribution Plan Trust Agreement (July 1, 2002, edition), that was approved by the board on April 26, 2001, and September 28, 2001, and approved by the Internal Revenue Service on September 24, 2001. The trust agreement sets the board's responsibilities as trustee of the defined contribution plan and requires that the assets of the trust be used for the exclusive benefit of the plan participants and beneficiaries.

(2) Copies of the Defined Contribution Plan Document, Trust Agreement, and related materials may be obtained from MPERA, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, MT 59620-0131, phone 1 (877) 275-7372, e-mail mpera@mt.gov, and are available on MPERA's web site at www.mpera.mt.gov. (History: 19-3-2104, MCA; IMP, 19-3-2102, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, from ARM 2.43.1001, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2009 MAR p. 82, Eff. 1/30/09; AMD, 2010 MAR p. 1725, Eff. 7/30/10; AMD, 2014 MAR p. 1999, Eff. 9/5/14; AMD, 2015 MAR p. 1891, Eff. 10/30/15.)

2.43.3502 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and incorporates by reference the State of Montana 401(a) Defined Contribution Plan Investment Policy Statement approved by the board on June 11, 2015. The Investment Policy Statement provides investment guidelines for the defined contribution plan, a long-term retirement-savings vehicle that permits participants to invest employer and participant contributions on a tax-deferred basis. The investment guidelines help the board to meet its fiduciary responsibilities to evaluate and positively influence the direction of the plan and its investments for the benefit of the plan participants and beneficiaries.

(2) The board adopts and incorporates by reference the State of Montana Stable Value Investment Guidelines Schedule approved by the board on December 29, 2009. These guidelines apply to the investment of 401(a) defined contribution plan participant assets and 457(b) deferred compensation plan participant assets that are pooled together in the plans' stable value group trust. The guidelines were developed through mutual agreement amongst the board, the investment manager, and the insurance wrap provider and provide guidance to the investment manager when investing participants' funds contained within the stable value group trust.

(3) Copies of the Investment Policy Statement and Full Discretion Guidelines may be obtained from MPERA, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, MT 59620-0131, phone 1 (877) 275-7372, e-mail mpera@mt.gov. The documents are also available online at www.mpera.mt.gov. (History: 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2122, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2004 MAR p. 1131, Eff. 5/7/04; AMD, 2005 MAR p. 1907, Eff. 10/7/05; AMD, 2007 MAR p. 677, Eff. 5/25/07; AMD & TRANS, from ARM 2.43.1002, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2009 MAR p. 1010, Eff. 6/26/09; AMD, 2010 MAR p. 1724, Eff. 7/30/10; AMD, 2010 MAR p. 2571, Eff. 10/29/10; AMD, 2011 MAR p. 2799, Eff. 12/23/11; AMD, 2013 MAR p. 1815, Eff. 10/18/13; AMD, 2014 MAR p. 2443, Eff. 10/10/14; AMD, 2015 MAR p. 1889, Eff. 10/30/15.)

2.43.3503 DEFINED CONTRIBUTION RETIREMENT PLAN INVESTMENT OPTIONS (1) The board will choose, regularly review, and may discontinue, add, or change investment options offered to participants of the DCRP. In doing so, the board will consider recommendations of the statutorily established Employee Investment Advisory Council and follow criteria established in the Investment Policy Statement.

(2) A DCRP participant with assets in a discontinued investment option will be given notice and 90 days to move assets from the investment option being discontinued to an offered investment option. Assets remaining in a discontinued investment option at the end of the 90-day period will be automatically transferred to the investment option similar in investment category and style selected by the board to replace the discontinued investment option. If the discontinued investment option is not replaced, the board will transfer the fund balance to the default balanced fund.

(3) DCRP participants will be provided a minimum of 30 days notice if the board replaces or changes the stable value investment option manager. The stable value investment option assets will automatically transfer to the new manager(s). (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2122, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2004 MAR p. 1131, Eff. 5/7/04; AMD & TRANS, from ARM 2.43.1003, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.3504 DEFINED CONTRIBUTION RETIREMENT PLAN DEFAULT INVESTMENT FUND (1) The board will identify an age-appropriate target date fund offered by the DCRP to be the default investment fund.

(2) Unless otherwise directed by the DCRP participant, the following assets will be deposited in the default investment fund:

(a) assets initially transferred from the PERS DBRP pursuant to ARM 2.43.1030 on behalf of DCRP participants;

(b) assets transferred from a discontinued, but not replaced, investment option pursuant to ARM 2.43.3503(2); and

(c) assets received without the DCRP participant having selected investment options.

(3) These assets will remain in the default investment fund until the DCRP participant files valid investment directions and redirects assets from the default investment fund to the selected investment option(s). (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2114, 19-3-2115, 19-3-2117, 19-3-2122, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2004 MAR p. 1131, Eff. 5/7/04; AMD & TRANS, from ARM 2.43.1004, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2015 MAR p. 1894, Eff. 10/30/15.)

2.43.3505 ESTABLISHMENT OF LONG-TERM DISABILITY TRUST FUND

(1) The board shall establish a long-term disability trust fund to be used exclusively for the payment of disability benefits to participants of the Defined Contribution Retirement Plan (DCRP).

(2) The long-term disability trust fund is a governmental plan under Internal Revenue Code section 401(a)(24) and may be invested in one or more group trust funds as determined by the Montana Board of Investments.

(a) The group trust fund or funds may be a group trust fund presently in existence or later established as permitted under IRC section 401(a)(24), IRS Revenue Ruling 81-100, IRS Revenue Ruling 2004-67, IRS Revenue Ruling 2011-1, and IRS Revenue Ruling 2014-24.

(b) The group trust fund or funds must be operated and maintained exclusively for the commingling and collective investment of monies pursuant to applicable IRS guidance and must be adopted as a part of the long-term disability trust fund.

(c) No part of the corpus or income of the long-term disability trust fund may be used for, or diverted to, any purpose other than the exclusive benefit of the disabled DCRP participants and their beneficiaries. This exclusive benefit provision is irrevocable.

(3) The long-term disability trust fund must be separate and distinct from the Defined Benefit Plan Trust Fund and the DCRP.

(4) The long-term disability trust fund must be funded by the statutorily determined percentage of the employers' contributions made for employees who are active DCRP participants.

(5) In addition to the requirements of (2), funds in the long-term disability trust fund will be invested pursuant to Article VIII, section 13, of the Constitution and Title 17, chapter 6, part 2, MCA. (History: 19-3-2104, 19-3-2141, MCA; IMP, 19-2-504, 19-3-2117, 19-3-2141, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, from ARM 2.43.1005, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2015 MAR p. 812, Eff. 6/26/15.)

Rules 2.43.3506 through 2.43.3509 reserved

2.43.3510 ELECTION PERIOD (1) Active PERS members have 12 months to complete the retirement plan choice election form provided by the board and file the election with MPERA. The 12-month election period starts the first day of the month following the month the member is initially reported to MPERA.

(2) Any newly hired PERS member, including seasonal, temporary, or part-time employees, who subsequently becomes inactive, must still file an election within their 12-month election period. Members will not have a new election period by virtue of returning to active employment at a later date.

(3) The 12-month election period for any PERS member who has not been properly reported to MPERA will start the first day of the month following the month the member is properly reported.

(a) An election to transfer to the PERS DCRP or the Montana University System Retirement Program will be effective upon confirmation by MPERA pursuant to ARM 2.43.3512 and will not be retroactive.

(4) The 12-month election period for employees of any municipal corporation, county, or public agency which becomes a contracting employer with PERS as provided under 19-3-201, MCA will start the first day of the month following the month the contracting employer initially reports the employee to MPERA. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1010, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2237, Eff. 11/28/13.)

2.43.3511 RETIREMENT PLAN CHOICE ELECTION FORM (1) MPERA shall provide PERS members a retirement plan choice election form which will require the following information:

- (a) full name (first, last, middle initial);
- (b) social security number;
- (c) date of birth;
- (d) complete address;
- (e) employing agency or agencies;
- (f) the member's signature indicating the elected retirement plan or program;

and

- (g) the date the member signed the election form.

(2) The PERS member shall complete and file the election form directly with MPERA within the timeframes defined in ARM 2.43.3510. Election forms given to employers or any other party are not considered to be filed with MPERA.

(3) The PERS member's election is irrevocable once the election form is filed with MPERA.

(4) The effective date of the election will be the date the member's election is confirmed by MPERA pursuant to ARM 2.43.3512. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1011, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.3512 ELECTION ELIGIBILITY AND CONFIRMATION (1) Upon receipt of a retirement plan choice election form, MPERA will verify that the member is eligible to make the election.

(2) The member is eligible to make an election if all the following conditions are met:

(a) the member was an active PERS member on or after July 1, 2002, with a PERS membership card on file with MPERA;

(b) the member made the election within the timeframes defined in ARM 2.43.3510;

(c) the member has completed any existing PERS or non-PERS service purchase contract pursuant to ARM 2.43.3515; and

(d) the member is not subject to a PERS DBRP Family Law Order.

(3) MPERA will confirm the PERS member's eligibility and election within five working days of receipt of the election form.

(4) The effective date of the election will be the date it is confirmed by MPERA. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2111, 19-3-2112, 19-3-2115, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1012, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.3513 and 2.43.3514 reserved

2.43.3515 PURCHASE OF SERVICE NOT PERMITTED BY PARTICIPANT IN DEFINED CONTRIBUTION RETIREMENT PLAN

(1) A member of PERS with an existing non-PERS service purchase contract entered into pursuant to any MPERA statute or rule who wishes to elect the DCRP or the Montana University System Retirement Program (MUS-RP) must terminate or complete the service purchase contract before the election will be confirmed by MPERA.

(2) If a member of PERS with an existing service purchase contract files an election form electing either the DCRP or the MUS-RP, MPERA will send written notice to the member that the election cannot be confirmed until the service purchase contract is either terminated or completed.

(3) The notice will give the member 30 days to provide MPERA with written notification of the member's intentions.

(4) The member must choose one of the following options:

(a) pay to MPERA in a lump sum the entire amount remaining due under the service purchase contract and have the entire amount of service purchased under the contract transferred to the DCRP; or

(b) pay nothing more to MPERA and have the prorated amount of service purchased under the contract credited and applicable contributions transferred to the DCRP; or

(c) change the member's election to the DBRP.

(5) If a member chooses the option in (4)(a), the member may, pursuant to ARM 2.43.441, complete the service purchase contract with a rollover of funds from an eligible retirement plan account belonging to the member or a direct trustee-to-trustee transfer of funds from the member's 26 USC 403(b) tax-sheltered annuity or 26 USC 457 governmental plan, subject to (5)(a):

(a) A direct trustee-to-trustee transfer of funds from the member's 26 USC 403(b) or 26 USC 457 governmental plan prior to the member's severance from employment can be made only if the transfer is either for the purchase of permissive service credit (as defined in section 415(n)(3)(A) of the Internal Revenue Code) under the receiving defined benefit governmental plan or a repayment to which section 415 of the Code does not apply by reason of section 415(k)(3) of the Code. A purchase of service pursuant to 19-3-513, 19-5-409, 19-6-804, 19-7-804, 19-8-904, 19-9-411, or 19-13-405, MCA, is a purchase of permissive service credit.

(6) If a member chooses the option in (4)(a), but then fails to complete the service purchase contract by the end of the member's 12-month election period, MPERA will unilaterally implement (4)(b).

(7) If a member with an existing service purchase contract fails to provide MPERA with written notice of the member's intentions within the 30 days provided in (3), MPERA will unilaterally implement (4)(b). MPERA will take this action at the close of the 30-day time frame.

(8) A member with an existing service purchase contract who elects the DCRP or the MUS-RP in the last month of the member's 12-month election period may pay to MPERA in a lump sum the entire amount remaining due under the service purchase contract.

(a) The entire amount of service purchased under the contract will then be transferred to the DCRP.

(b) The member will not be given time to pay off the existing service purchase contract after the close of the member's 12-month election period.

(9) Any member of an MPERA-administered retirement system with an existing service purchase contract who does not elect the DCRP or the MUS-RP may not terminate the service purchase contract pursuant to this rule. (History: 19-2-403, 19-2-1010, 19-3-2104, MCA; IMP, 19-2-710, 19-3-2111, 19-3-2112, 19-3-2115, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2003 MAR p. 1800, Eff. 8/15/03; AMD, 2005 MAR p. 913, Eff. 6/17/05; AMD & TRANS, from ARM 2.43.1015, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2237, Eff. 11/28/13.)

Rule 2.43.3516 reserved

2.43.3517 FAMILY LAW ORDERS, EXECUTIONS, AND INCOME-WITHHOLDING ORDERS AND ELECTIONS (1) A member of PERS who is subject to a PERS Family Law Order pursuant to 19-2-907, MCA, and wishes to elect the DCRP or the Montana University System Retirement Program (MUS-RP), must have the Family Law Order amended to comply with the DCRP or MUS-RP and approved by the board no later than the end of the member's 12-month election period.

(2) A member of PERS who is subject to an execution or income-withholding order pursuant to 19-2-909, MCA, and wishes to elect the DCRP or the MUS-RP, must have the execution or income-withholding order amended to comply with the DCRP or the MUS-RP no later than the end of the member's 12-month election period.

(3) If the order discussed in (1) or (2) is not properly amended and approved by the close of the member's 12-month election period, MPERA will not confirm the member's election. The member will remain a participant of the DBRP. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-2-907, 19-2-909, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1017, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2237, Eff. 11/28/13.)

Rules 2.43.3518 and 2.43.3519 reserved

2.43.3520 ELECTION FOR EMPLOYEES IN OPTIONAL PERS MEMBERSHIP POSITIONS (1) An employee eligible for optional membership who, pursuant to 19-3-412, MCA, chooses to be a member of PERS will initially be a participant of the PERS DBRP. The DBRP participant will have 12 months from the first day of the month following the month the member is initially reported to MPERA as a PERS member to file a retirement plan choice election form with MPERA pursuant to ARM 2.43.3510.

(2) An employee who declines optional membership under 19-3-412, MCA, is not a member of PERS and has no retirement plan choice. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1020, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.3521 and 2.43.3522 reserved

2.43.3523 MEMBERSHIP IN OTHER TITLE 19 RETIREMENT PLANS (1) A PERS member who is also a member of another Title 19 retirement system shall make a retirement plan election pursuant to ARM 2.43.3510 and 2.43.3511.

(2) PERS members employed full- or part-time by both a PERS-covered employer and another Title 19 retirement system employer will be bound by the statutory membership requirements of the PERS Defined Benefit Retirement Plan or Defined Contribution Retirement Plan, whichever they elect. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, from ARM 2.43.1023, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.3524 RETIREES NOT ENTITLED TO ELECTION (1) Retired members of the PERS may not elect the PERS Defined Contribution Retirement Plan or the Montana University System Retirement Program, but must remain members of the PERS Defined Benefit Retirement Plan regardless of reemployment in a PERS-covered position.

(2) Section (1) also applies to retired members who later return to active PERS membership. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-1106, 19-3-2104, 19-3-2111, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, from ARM 2.43.1024, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2237, Eff. 11/28/13.)

2.43.3525 MONTANA UNIVERSITY SYSTEM EMPLOYEE ELECTIONS

(1) A Montana University System (MUS) employee who is a PERS member is required to make a retirement plan election pursuant to ARM 2.43.3510 and 2.43.3511.

(2) A MUS employee who is a PERS member may be a participant of the MUS Retirement Program (MUS-RP) and either the PERS Defined Benefit Retirement Plan (DBRP) or the PERS Defined Contribution Retirement Plan (DCRP) only under one of the following conditions:

(a) The PERS member is employed part- or full-time by both the MUS and another PERS-covered employer and does not have previous retirement plan election(s) on file with MPERA. The member may elect the MUS-RP for his or her MUS employment and the DBRP or DCRP for his or her other PERS-covered employment.

(b) The PERS member is employed by the MUS, elected the MUS-RP, and accepted employment with another PERS-covered employer, other than MUS. The member may have terminated employment with the MUS or may have taken a separate (second) job with the other PERS-covered employer. In either case, the member must elect either the DBRP or DCRP as the member's retirement plan for the member's employment with the other PERS-covered employer.

(3) A MUS employee who is in both a PERS-covered position and an MUS-RP-covered position may be a participant of both the MUS-RP and either the DBRP or DCRP. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2104, 19-3-2112, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; TRANS, from ARM 2.43.1025, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2237, Eff. 11/28/13.)

Rules 2.43.3526 through 2.43.3530 reserved

2.43.3531 TIMING OF TRANSFERS TO THE DEFINED CONTRIBUTION RETIREMENT PLAN (1) Once a member's election to join either the PERS DCRP or the Montana University System Retirement Program (MUS-RP) has been confirmed, MPERA will transfer contributions to the participant's individual account in the DCRP or the MUS-RP within 15 working days. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2114, 19-3-2117, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1031, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2237, Eff. 11/28/13.)

2.43.3532 CREDITING OF INDIVIDUAL ACCOUNTS (1) MPERA will transfer a DCRP participant's statutorily required employee and employer contributions to the DCRP recordkeeper within two working days after receipt in good order of each reporting agency's contribution report and contributions.

(2) The DCRP recordkeeper will credit individual accounts and transfer contributions to a DCRP participant's selected investment option(s) within one working day after receipt of contributions from MPERA. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-2117, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1032, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.3533 REALLOCATION OF CERTAIN PERS EMPLOYER CONTRIBUTIONS TO DCRP MEMBER ACCOUNTS (1) Pursuant to 19-3-2117, MCA, certain PERS employer contributions for employees participating in the PERS DCRP are allocated to the PERS DBRP to pay off the unfunded actuarial liability created by PERS members who elected to participate in the DCRP, otherwise known as the plan choice rate unfunded actuarial liability (PCR UAL).

(2) MPERA will reallocate those certain PERS employer contributions to each DCRP member's account starting with that member's first payday in the month following the board's verification that the PCR UAL has been fully paid off.

(3) The employer contributions will be credited to the DCRP member's account pursuant to the processes and time frames established in ARM 2.43.2114 and ARM 2.43.3532. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-3-316, 19-3-2117; NEW, 2016 MAR p. 310, Eff. 2/20/16.)

Rules 2.43.3534 through 2.43.3539 reserved

2.43.3540 DISABILITY BENEFITS FOR MEMBERS OF THE DEFINED CONTRIBUTION RETIREMENT PLAN (1) Members of the Defined Contribution Retirement Plan (DCRP) who are found by the board to be disabled are entitled to a disability benefit pursuant to 19-3-2141, MCA.

(2) The disability benefit awarded a member of the DCRP is calculated based on the member's years of service credit, not years of membership service. The applied factor is based on membership service and the member's initial hire date, pursuant to 19-3-2141, MCA.

(3) The disability benefit awarded a member of the DCRP is not a retirement benefit, but a benefit paid from the long-term disability trust fund established pursuant to 19-3-2141, MCA.

(4) The disability benefit awarded a member of the DCRP is not subject to option 2, option 3 or option 4 contained in 19-3-1501, MCA.

(5) The disability benefit paid to a member of the DCRP is not subject to distribution pursuant to a family law order or a qualified domestic relations order.

(6) Disability benefits paid from the long-term disability trust fund will be tax-reported to the receiving participant and the IRS on the appropriate IRS form.

(History: 19-3-2104, 19-3-2141, MCA; IMP, 19-3-2141, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD, 2003 MAR p. 1800, Eff. 8/15/03; TRANS, from ARM 2.43.1040, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

Rules 2.43.3541 through 2.43.3544 reserved

2.43.3545 DISTRIBUTION TO PARTICIPANT (1) A DCRP participant is entitled to receive the participant's vested accounts upon termination of service in a PERS-covered position, whether for retirement or for other purposes.

(2) The participant shall, within 120 days after the participant terminates service in a PERS-covered position, notify MPERA of the date upon which the participant wants distribution of the accounts to start.

(a) Distribution must start no later than April 1 of the calendar year following the later of:

(i) the calendar year in which the participant reaches age 70 1/2; or

(ii) the calendar year in which the participant retires from service in a PERS-covered position.

(b) If the participant does not select the date upon which distributions are to start, distributions will start 120 days after termination of service from a PERS-covered position.

(c) Once selected, the participant may change the distribution date provided the date continues to meet the requirements of (2)(a).

(3) The participant shall also, no later than 30 days before the start of the distribution of the accounts, select a payment option.

(a) Payment options include:

(i) a lump-sum distribution of the participant's vested accounts, less applicable taxes;

(ii) a direct trustee-to-trustee rollover of the participant's vested accounts to an eligible retirement plan;

(iii) a regular rollover of the participant's vested accounts to an eligible retirement plan;

(iv) periodic payments of a fixed amount; or

(v) periodic payments based on the participant's life expectancy, determined annually.

(b) A payment option may only be selected if the amounts payable to the participant are expected to be at least equal to the minimum distribution required under section 401(a)(9) of the Internal Revenue Code and satisfy the minimum distribution incidental benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code.

(c) If the participant does not select a payment option, the vested accounts will be paid in a lump sum, less applicable taxes.

(4) If the participant fails to choose a payment option or a distribution time, a lump-sum distribution with 20% withheld for federal taxes will occur 120 days after termination of service from a PERS-covered position. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-2-303(22), 19-2-1007, 19-3-2123, 19-3-2124, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1045, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.3546 DISTRIBUTION UPON DEATH OF PARTICIPANT (1) If a DCRP participant dies prior to the start of the distribution of the participant's benefits, the participant's beneficiary, provided the beneficiary is the participant's spouse, has the same payment options as the participant would have had.

(a) Those payment options include:

(i) a lump sum distribution of the participant's vested accounts, less applicable taxes;

(ii) a direct trustee-to-trustee rollover of the participant's vested accounts to an eligible retirement plan, a traditional or Roth individual retirement account, or an annuity;

(iii) a regular rollover of the participant's vested accounts to an eligible retirement plan;

(iv) periodic payments of a fixed amount; or

(v) periodic payments based on the beneficiary's life expectancy, determined annually.

(b) A payment option may only be selected if the amounts payable to the beneficiary are expected to be at least equal to the minimum distribution required under section 401(a)(9) of the Internal Revenue Code and satisfy the minimum distribution incidental benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code.

(c) The beneficiary must select the payment option prior to 60 days after the receipt by the board of the satisfactory proof of the participant's death.

(d) If the beneficiary does not select a payment option, the vested accounts will be paid in a lump sum, less applicable taxes.

(2) If the beneficiary is not the member's spouse, the beneficiary may elect to rollover only to an individual retirement account or individual retirement annuity that is treated as an inherited individual retirement account or annuity.

(3) Unless the participant's beneficiary is the participant's spouse, the payment of benefits must start within 60 days after receipt by the board of satisfactory proof of the participant's death.

(4) If the beneficiary is the participant's spouse, the spouse may, within 60 days of the participant's death, elect to defer distribution until a date no later than the date the participant would have attained age 70 1/2. (History: 19-2-403, 19-3-2104, MCA; IMP, 19-2-1007, 19-3-2124, 19-3-2125, MCA; NEW, 2002 MAR p. 1884, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1046, 2008 MAR p. 2467, Eff. 12/1/08.)

Subchapter 36

Allocation of Additional Employer Contributions

2.43.3601 ALLOCATION OF ADDITIONAL EMPLOYER CONTRIBUTIONS
ON BEHALF OF MONTANA UNIVERSITY SYSTEM EMPLOYEES IN THE
OPTIONAL RETIREMENT PROGRAM

(1) The additional employer contributions provided for in 19-3-316(3), MCA that are paid on behalf of MUS employees in the optional retirement program will be allocated as follows:

(a) The 1.00% additional employer contribution will be directed to the PERS defined benefit plan trust fund.

(b) The 0.27% additional employer contribution is already allocated to the PERS defined benefit retirement plan's plan choice rate pursuant to 19-21-214(2)(b), MCA.

(c) The 0.1% additional employer contribution that commences July 1, 2014, will be directed to the PERS defined benefit plan trust fund unless the board determines pursuant to 19-3-2121, MCA that an increase in the plan choice rate is required to actuarially fund the PERS Defined Contribution Retirement Plan's share of the PERS defined benefit's plan unfunded liability. In that event, the 0.1% additional employer contribution will be directed to the PERS Defined Contribution Retirement Plan's plan choice rate. (History: 19-2-403, 19-3-2104, MCA; IMP: 19-3-2104, MCA; NEW, 2013 MAR p. 2070, Eff. 11/15/13.)

Subchapters 37 through 39 reserved

Subchapter 40

Highway Patrol Officers' Retirement System

Rules 2.43.4001 and 2.43.4002 reserved

2.43.4003 HIGHWAY PATROL OFFICERS' MINIMUM BENEFIT

ADJUSTMENTS (1) When the state of Montana has not negotiated a salary agreement with its actively employed highway patrol officers by July 1 of any year, MPERA shall take the following actions:

(a) Retirement benefits will be paid to non-GABA retirees using the most recent base salary for a newly confirmed highway patrol officer negotiated by the state and reported to MPERA.

(b) When a salary agreement is negotiated by the state and MPERA is notified of a change in base pay for newly confirmed highway patrol officers, retirement benefits will be recalculated and adjustments paid retroactively to non-GABA retirees. (History: 19-2-403, MCA; IMP, 19-6-707, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.4004 and 2.43.4005 reserved

2.43.4006 DEFINITIONS (1) "DROP" means the HPORS deferred retirement option plan.

(2) "DROP account" means the accumulated amount of money that has accrued to a DROP participant, and interest.

(3) "Monthly DROP accrual" means the amount equal to the monthly benefit that would have been payable to the participant had the participant terminated and retired, plus the participant's member contributions for the month at the percentage provided in 19-6-402, MCA. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1005, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

Rules 2.43.4007 and 2.43.4008 reserved

2.43.4009 DROP APPLICATION PROCESS (1) Eligible members who wish to participate in the DROP must file a DROP information request with MPERA.

(2) The information request must include the member's:

- (a) full name;
- (b) social security number;
- (c) mailing address;
- (d) date of birth; and
- (e) anticipated DROP period start date.

(3) MPERA will calculate estimates of the monthly benefit that would have been payable to the member had the member terminated employment and retired at the commencement of the DROP period. The estimate and a DROP application will be sent to the member.

(4) An eligible member who wishes to participate must complete the DROP application and return it to MPERA. MPERA must receive the completed application at least two weeks before the first day of the month the member wants the DROP period to be effective; otherwise MPERA will notify the member that the DROP period will be effective the following month. If a birth certificate or other acceptable proof of age is required by the application, it must accompany the application for the application to be complete.

(5) Once the application is filed with MPERA, the election to participate in the DROP is irrevocable. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1003, 19-6-1004, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

2.43.4010 DROP PERIOD (1) The DROP period must begin on the first day of a month, must be prospective, and must end on the last day of a month. The DROP period will end as specified on the application, upon termination, or upon the participant's death, whichever occurs first.

(2) If the participant terminates or dies during the DROP period, the DROP period will end on the last day of the last full month of active service.

(3) A participant may not receive a retirement benefit or the monthly benefit portion of the DROP accrual for the month in which they terminate or die. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1003, 19-6-1004, 19-6-1006, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

Rules 2.43.4011 and 2.43.4012 reserved

2.43.4013 DROP PARTICIPATION LIMITS (1) A DROP participant:

(a) is not eligible for disability retirement;

(b) may not purchase service;

(c) may not receive membership or service credit, except as provided in 2.43.4023; and

(d) may not receive a refund of their HPORS account balance. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1003, 19-6-1004, 19-6-1005, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

Rule 2.43.4014 reserved

2.43.4015 ESTIMATED MONTHLY DROP ACCRUAL (1) Once a member files an application to participate in the DROP and the participant's DROP period begins, estimated monthly DROP accruals will be paid into the participant's DROP account.

(2) The employer shall provide all documents MPERA needs to determine the participant's total service credit and highest average compensation. Once the documents are received, the MPERA will finalize the monthly benefit portion of the participant's monthly DROP accrual.

(3) MPERA will suspend the estimated monthly benefit portion of the participant's monthly DROP accrual after three months if the employer has not provided the above documents.

(a) The monthly benefit portion of the participant's monthly DROP accrual will not resume until after the documents are received from the employer and the monthly benefit has been approved.

(b) Retroactive payments of the monthly benefit will be made to the member's DROP account, if necessary.

(c) The participant's member contributions portion of the monthly DROP accrual will continue despite suspension of the estimated monthly benefit portion. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1003, 19-6-1005, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

2.43.4016 INTEREST PAID TO PARTICIPANTS (1) A participant's DROP account must include compounded annual interest.

(2) Subject to (3), the interest rate will be fixed at the end of each fiscal year and will equal the actuarially assumed rate of return for the trust fund.

(3) Interest credited on the DROP account shall comply with any applicable provisions of 29 USC 623(i)(10)(B)(i) of the federal Age Discrimination in Employment Act (ADEA) and any applicable federal treasury regulations establishing market rates of return for purposes of complying with ADEA. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1003, 19-6-1005, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

2.43.4017 DISTRIBUTION OF DROP BENEFIT (1) The DROP benefit will be distributed upon the participant's termination of employment. The participant may request to receive the DROP benefit in a lump sum, or in a direct rollover to another eligible plan, as allowed by the Internal Revenue Service (IRS).

(2) To make a direct rollover of the DROP benefit, the participant must make arrangements with the other plan and provide any necessary information to MPERA.

(3) A participant must designate a distribution method within 60 days after termination of employment; otherwise MPERA will pay the DROP benefit to the participant in a lump sum. Any required federal or state withholding will reduce the amount of the payment.

(4) MPERA will distribute the DROP benefit as soon as administratively feasible once all appropriate documents are filed with MPERA.

(5) Upon a DROP participant's death, the participant's DROP benefit will be paid to the participant's survivors or, if no survivors exist, then to the participant's designated beneficiaries. The DROP benefit will be paid in a lump sum, unless the recipient chooses to receive the DROP benefit in a direct rollover to another eligible retirement plan, as allowed by the IRS. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1003, 19-6-1006, 19-6-1008, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

2.43.4018 DISTRIBUTION OF DROP BENEFIT PURSUANT TO FAMILY LAW ORDER (1) A family law order (FLO) may distribute all or a portion of a DROP participant's DROP benefit to an alternate payee. To do so, the FLO must specifically reference distribution of a DROP benefit and provide a specific method for determining the amount of the DROP benefit to be paid to the alternate payee.

(2) The alternate payee named in the FLO is entitled to the same distribution options available to the participant and as allowed by the IRS.

(3) A FLO may distribute all or a portion of a DROP participant's DROP benefit even if the participant joined the DROP subsequent to approval of the FLO.

(4) A FLO that does not specifically address a DROP benefit will not be considered to distribute any portion of the payee's DROP benefit to an alternate payee.

(5) A FLO cannot specifically require or forbid that the payee participate in the DROP.

(6) To distribute any portion of a participant's DROP benefit, a FLO approved prior to the effective date of the DROP legislation (October 1, 2015) must be amended to specifically address the DROP benefit.

(7) A DROP benefit cannot be distributed pursuant to a FLO until the DROP participant terminates employment. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1003, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

Rule 2.43.4019 reserved

2.43.4020 EMPLOYMENT AFTER THE DROP PERIOD (1) Unless the participant's DROP period is extended pursuant to ARM 2.43.4023, monthly DROP accruals will stop at the end of the designated DROP period even if the participant continues HPORS-covered employment.

(2) The participant's monthly service retirement benefit payments will begin the month following the month in which the participant terminates post-DROP HPORS-covered employment.

(3) The participant's DROP benefit will be distributed pursuant to ARM 2.43.4017. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1003, 19-6-1007, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

Rules 2.43.4021 and 2.43.4022 reserved

2.43.4023 IMPACT OF UNIFORMED SERVICE DURING DROP PERIOD

(1) HPORS DROP participants called to duty for a period or periods of service in the uniformed services during their DROP period must, within 90 days from the date they return to employment, make an irrevocable election to either:

(a) include in their original DROP period, pursuant to ARM 2.43.2315, the time in which they were called to duty; or

(b) add this time to the end of their original DROP period.

(2) The time that can be either included in or added to a participant's DROP period under (1) is the total number of whole months during which the participant served in uniformed services during the DROP period. However, the total number of months in the new DROP period may not exceed the total number of months in the DROP period originally elected by the participant under 19-6-1004, MCA.

(3) If the participant elects to include the period of uniformed services in the participant's original DROP period:

(a) the participant's member contributions must be based on the compensation the participant would have received had the participant not been called to uniformed services duty, including any pay raises; and

(b) once the member and employer contributions are paid to MPERA pursuant to ARM 2.43.2315, the applicable member contributions and the participant's monthly retirement benefit for each month of included USERRA service will be added to the participant's DROP account.

(4) If the participant elects to add the period of uniformed services to the participant's original DROP period:

(a) the participant's member contributions to the participant's DROP account will be determined based on the compensation earned during the added months; and

(b) the participant's monthly retirement benefit will be paid to the participant's DROP account during the added months. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1004, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

2.43.4024 DIFFERENTIAL PAY FOR MILITARY LEAVE (1) For purposes of (2) and (3), differential pay is pay by an employer to a member who leaves HPORS-covered employment to serve in the uniformed services, and the pay is for all or some of the difference between the member's normal salary and military pay.

(2) During the DROP period, employer contributions under 19-6-404, MCA, for all differential pay must continue to be made to the retirement system.

(3) Member contributions under 19-6-402, MCA, for differential pay must be made to the member's DROP account.

(4) The remainder of the participant's monthly DROP accrual will be subject to ARM 2.43.4023. (History: 19-2-403, 19-6-1003, MCA; IMP, 19-6-1005, MCA; NEW, 2015 MAR p. 2244, Eff. 12/25/15.)

Subchapter 41 reserved

Subchapter 42

Sheriffs' Retirement System

Rules 2.43.4201 and 2.43.4202 reserved

2.43.4203 DETENTION OFFICER MEMBERSHIP IN SHERIFFS' RETIREMENT SYSTEM (SRS) (1) An active PERS member on July 1, 2005 is eligible to become a member of the SRS, and an employee hired by a sheriff after July 1, 2005 must become a member of the SRS, pursuant to Title 19, chapter 7, part 3, MCA, if the member or employee meets the definition of "detention officer" in 19-7-101(2), MCA, which includes:

(a) being employed in a detention center, a juvenile detention center, a temporary detention center, or a detention facility;

(b) having authority and responsibility for maintaining custody of an inmate for any period of time and performing tasks related to the operation of a detention center; and

(c) completing, within the time allowed by ARM 23.13.206, a detention officers' basic course as provided by the Montana Law Enforcement Academy or equivalent training in a training school meeting the minimum standards of the Board of Crime Control, as required by ARM 23.13.206, pursuant to 44-4-301, MCA. (History: 19-2-403, MCA; IMP, 19-7-101, 19-7-301, 19-7-302, MCA; NEW, 2005 MAR p. 1670, Eff. 9/9/05; AMD & TRANS, from ARM 2.43.1210, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2240, Eff. 11/28/13.)

2.43.4204 DETENTION OFFICER ELECTION TO TRANSFER TO SHERIFFS' RETIREMENT SYSTEM (SRS) (1) An active PERS member who, on July 1, 2005, met all the criteria to be a "detention officer" was eligible to make an election to become a member of SRS.

(2) A detention officer who elected to change retirement system membership from PERS to SRS pursuant to (1) has not terminated from service and is not eligible to receive any benefit from PERS until termination of employment. (History: 19-2-403, MCA; IMP, 19-7-101, 19-7-301, 19-7-302, MCA; NEW, 2005 MAR p. 1670, Eff. 9/9/05; AMD & TRANS, from ARM 2.43.1211, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.4205 and 2.43.4206 reserved

2.43.4207 DETENTION CENTER REPORTS FROM SHERIFFS (1) On or before June 1 of each year, the board will provide each sheriff an employer report containing the information from the immediately preceding report, on which the sheriff need only provide new information or corrections regarding employees of the sheriffs' office.

(2) By the 15th day of July each year, the sheriff of each county with a detention center must file the revised employer report with the board.

(3) The employer report will include information documenting the appropriate retirement system for detention officers, as of June 30 of each year, including:

(a) each detention officer's name, social security number, retirement system, and date of initial employment in current position;

(b) whether the employee is acting as a detention officer, and has completed a detention officers' basic course or equivalent training at a training school meeting the minimum standards of the Board of Crime Control or is expected to receive such training within the time allowed by ARM 23.13.206; and

(c) the date the employee left employment, if applicable.

(4) If the sheriff's office employs no detention officers, the report referenced in (3) must indicate that there are no employees who are detention officers. (History: 19-2-403, MCA; IMP, 19-7-101, 19-7-301, 19-7-302, MCA; NEW, 2005 MAR p. 1670, Eff. 9/9/05; AMD & TRANS, from ARM 2.43.1212, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2240, Eff. 11/28/13.)

Subchapters 43 through 45 reserved

Subchapter 46

Municipal Police Officers' Retirement System

Rules 2.43.4601 and 2.43.4602 reserved

2.43.4603 MUNICIPAL POLICE OFFICERS' MINIMUM BENEFIT

ADJUSTMENTS (1) When a city belonging to MPORS has not negotiated a salary agreement with its actively employed police officers by July 1 of any year, the following actions will be taken by MPERA:

(a) Retirement benefits will be paid to non-GABA retirees from that city using the most recent base salary for a newly confirmed police officer negotiated by the city and reported to MPERA.

(b) When a salary is negotiated by the city and MPERA is notified of a change in base pay for the city's newly confirmed police officers, retirement benefits will be recalculated and adjustments paid retroactively to non-GABA retirees from that city.

(c) Updated reports will be sent to the state auditor certifying the increased retirement benefits payable from insurance premium tax funds during a given fiscal year as those amounts become known. (History: 19-2-403, MCA; IMP, 19-9-1007, MCA; NEW, 1991 MAR p. 2216, Eff. 11/15/91; AMD & TRANS, from ARM 2.43.611, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.4604 and 2.43.4605 reserved

2.43.4606 DEFINITIONS (1) "DROP" means the deferred retirement option plan.

(2) "DROP account" means the amount of money that has accrued to a DROP participant and includes the monthly DROP accrual plus post retirement adjustments, times the applicable number of months of participation, and interest.

(3) "Monthly DROP accrual" means the amount equal to the monthly benefit that would have been payable to the participant had the participant terminated and retired. (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1205, MCA; NEW, 2002 MAR p. 2652, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1101, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.4607 and 2.43.4608 reserved

2.43.4609 DROP APPLICATION PROCESS (1) Eligible members who wish to participate in the DROP must file a DROP information request with MPERA.

(2) The information request must include the member's:

- (a) full name;
- (b) social security number;
- (c) mailing address;
- (d) date of birth; and
- (e) anticipated date to start the DROP period.

(3) MPERA will calculate estimates of monthly DROP accruals and the DROP benefit. The estimates and a DROP application will be sent to the member.

(4) An eligible member who wishes to participate must complete the DROP application and return it to MPERA. MPERA must receive the completed application at least two weeks before the first day of the month the member wants the DROP period to be effective; otherwise MPERA will notify the member that the DROP period will be effective the following month. If a birth certificate or other acceptable proof of age is required by the application, it must accompany the application for the application to be complete.

(5) Once the application is filed with MPERA, the election to participate in the DROP is irrevocable. (History: 19-2-403, 19-3-1203, MCA; IMP, 19-3-1203, 19-9-1204, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; AMD, 2003 MAR p. 1800, Eff. 8/15/03; AMD & TRANS, from ARM 2.43.1104, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.4610 DROP PERIOD (1) The DROP period must begin on the first day of a month, must be prospective, and must end on the last day of a month. The DROP period will end as specified on the application, upon termination, or upon the participant's death, whichever occurs first.

(2) If the participant terminates or dies during the DROP period, the DROP period will end on the last day of the last full month of active service.

(3) A participant may not receive a retirement or DROP benefit distribution for the month in which they terminate or die. (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1203, 19-9-1204, 19-9-1206, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, from ARM 2.43.1105, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.4611 and 2.43.4612 reserved

2.43.4613 DROP PARTICIPATION LIMITS (1) A DROP participant:

- (a) is not eligible for disability retirement;
- (b) may not purchase service;
- (c) may not receive membership or service credit; and
- (d) may not receive a refund. (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1203, 19-9-1204, 19-9-1205, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, from ARM 2.43.1108, 2008 MAR p. 2467, Eff. 12/1/08.)

Rule 2.43.4614 reserved

2.43.4615 ESTIMATED MONTHLY DROP ACCRUAL (1) Once a participant files an application to participate in the DROP, the participant may be paid estimated monthly DROP accruals.

(2) The employer shall provide all documents MPERA needs to determine the participant's total service credit and final average compensation. Once the documents are received, the MPERA will finalize the amount of the participant's monthly DROP accrual. Once the monthly accrual amount is finalized, the board will take appropriate action on the application at the next board meeting.

(3) MPERA will suspend estimated monthly DROP accruals after three months if the employer has not provided the above documents. Monthly DROP accruals will not resume until after the documents are received and the board approves the DROP application. The first monthly DROP accrual following board approval will include any previously suspended accruals and retroactive accruals. (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1203, 19-9-1205, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, from ARM 2.43.1110, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.4616 INTEREST PAID TO PARTICIPANTS (1) A participant's DROP account must include compounded annual interest.

(2) Subject to (3), the interest rate will be fixed at the end of each fiscal year and will equal the actuarially assumed rate of return for the trust fund.

(3) Interest credited on the DROP account shall comply with any applicable provisions of 29 USC section 623(i)(10)(B)(i) of the federal Age Discrimination in Employment Act (ADEA) and any applicable federal treasury regulations establishing market rates of return for purposes of complying with ADEA. (History: 19-2-403, 19-9-1203, MCA; IMP, 19-2-303(23), 19-9-1206, 19-9-1208, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1111, 2008 MAR p. 2467, Eff. 12/1/08; AMD, MAR p. 1678, Eff. 8/26/11.)

2.43.4617 DISTRIBUTION OF DROP BENEFIT (1) The DROP benefit will be distributed upon the participant's termination of employment. The participant may request to receive the DROP benefit in a lump sum, or in a direct rollover to another eligible plan, as allowed by the Internal Revenue Service (IRS).

(2) To make a direct rollover of the DROP benefit, the participant must make arrangements with the other plan and provide any necessary information to MPERA.

(3) A participant must designate a distribution method within 60 days after termination of employment; otherwise MPERA will pay the DROP benefit to the participant in a lump sum. Any required federal or state withholding will reduce the amount of the payment.

(4) MPERA will distribute the DROP benefit as soon as administratively feasible once all appropriate documents are filed with MPERA.

(5) Upon a DROP participant's death, the participant's DROP benefit will be paid to the participant's survivors or, if no survivors exist, then to the participant's designated beneficiaries. The DROP benefit will be paid in a lump sum, unless the recipient chooses to receive the DROP benefit in a direct rollover to another eligible retirement plan, as allowed by the IRS. (History: 19-2-403, 19-9-1203, MCA; IMP, 19-2-1007, 19-9-1206, 19-9-1208, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; AMD & TRANS, from ARM 2.43.1112, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

2.43.4618 DISTRIBUTION OF DROP BENEFIT PURSUANT TO FAMILY LAW ORDER (1) A family law order (FLO) may distribute all or a portion of a DROP participant's DROP benefit to an alternate payee. To do so, the FLO must specifically reference distribution of a DROP benefit and provide a specific method for determining the amount of the DROP benefit to be paid to the alternate payee.

(2) The alternate payee named in the FLO is entitled to the same distribution options available to the participant and as allowed by the IRS.

(3) A FLO may distribute all or a portion of a DROP participant's DROP benefit even if the participant joined the DROP subsequent to approval of the FLO.

(4) A FLO that does not specifically address a DROP benefit will not be considered to distribute any portion of the payee's DROP benefit to an alternate payee.

(5) A FLO cannot specifically require or forbid that the payee participate in the DROP.

(6) To distribute any portion of a participant's DROP benefit, a FLO approved prior to the enactment of the DROP legislation (May 1, 2001) must be amended to specifically address the DROP benefit.

(7) A DROP benefit cannot be distributed pursuant to a FLO until the DROP participant terminates employment. (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1208, MCA; NEW, 2003 MAR p. 1801, Eff. 8/15/03; TRANS, from ARM 2.43.1113, 2008 MAR p. 2467, Eff. 12/1/08.)

Rule 2.43.4619 reserved

2.43.4620 EMPLOYMENT AFTER THE DROP PERIOD (1) Monthly DROP accruals will stop at the end of the designated DROP period even if the participant continues employment.

(2) The participant's monthly service retirement benefit payments will begin the month following the month in which the participant terminates post-DROP employment.

(3) The participant's DROP benefit will be distributed pursuant to ARM 2.43.4617. (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1207, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, from ARM 2.43.1115, 2008 MAR p. 2467, Eff. 12/01/08.)

Rules 2.43.4621 and 2.43.4622 reserved

2.43.4623 GUARANTEED ANNUAL BENEFIT ADJUSTMENT INCREASES FOR DROP PARTICIPANTS (1) This rule applies to participants eligible for the guaranteed annual benefit adjustment (GABA) under 19-9-1009, 19-9-1010, or 19-9-1013, MCA.

(2) A participant will be eligible for subsequent GABA increases after participating in the DROP for at least 12 months. The first GABA increase will begin the following January. The GABA will be applied to the participant's monthly DROP accrual.

(3) Participants who continue employment after the DROP period will not receive GABA increases during the period of post-DROP employment.

(4) After termination of employment, GABA increases will be applied to the participant's retirement benefits, but not to the DROP benefit. The participant will receive GABA increases after receiving monthly DROP accruals or retirement benefits for a combined total of at least 12 months. The GABA increase will begin the following January. (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1205, 19-9-1207, 19-9-1208, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, from ARM 2.43.1118, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.4624 MINIMUM BENEFIT FOR DROP PARTICIPANTS (1) This rule applies to participants eligible for the minimum benefit adjustment under 19-9-1007, MCA.

(2) The monthly DROP accrual paid during the DROP period may not be less than the minimum benefit.

(3) Participants who continue employment after the DROP period may not receive minimum benefit increases during the period of post-DROP employment.

(4) The total retirement benefit paid to a participant after termination may not be less than the minimum benefit. (History: 19-2-403, 19-9-1203, MCA; IMP, 19-9-1205, 19-9-1207, 19-9-1208, MCA; NEW, 2002 MAR p. 1891, Eff. 7/12/02; TRANS, from ARM 2.43.1119, 2008 MAR p. 2467, Eff. 12/01/08.)

Subchapter 47 reserved

Subchapter 48

Firefighters' Unified Retirement System

Rules 2.43.4801 and 2.43.4802 reserved

2.43.4803 FIREFIGHTERS' MINIMUM BENEFIT ADJUSTMENTS

(1) When a city belonging to FURS has not negotiated a salary agreement with its actively employed firefighters by July 1 of any year, MPERA shall take the following actions:

(a) Retirement benefits will be paid to non-GABA retirees from that city using the most recent base salary for a newly confirmed firefighter negotiated by the city and reported to MPERA.

(b) When a salary agreement is negotiated by the city and MPERA is notified of a change in base pay for the city's newly confirmed firefighters, retirement benefits will be recalculated and adjustments paid retroactively to non-GABA retirees from that city.

(c) Updated reports will be sent to the State Auditor certifying the increased retirement benefits payable from insurance premium tax funds during a given fiscal year as those amounts become known. (History: 19-2-403, MCA; IMP, 19-13-1007, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08.)

Rules 2.43.4804 through 2.43.4806 reserved

2.43.4807 PART-PAID FIREFIGHTERS' SERVICE (1) Service credit earned by part-paid firefighters prior to July 1, 1981, will be computed and granted on the basis of the ratio of salary earned by the part-paid firefighter to the salary paid to a newly confirmed full-paid firefighter during the same time period.

(2) Service credit earned on or after July 1, 1981, shall be granted under the assumption that all part-paid firefighters work 15% time. Employer and part-paid employee contributions to FURS will be based on an assumed salary for part-paid firefighters which is 15% of a newly confirmed full-paid firefighter's salary for the same time period.

(3) A part-paid firefighter will accrue service credit of one month for each calendar month during which contributions are made; however, if and when the part-paid service is qualified into another system, or if the part-paid firefighter also has full-paid firefighter service credit, each calendar month of part-paid service shall be credited as only .15 months of service. (History: 19-2-403, MCA; IMP, 19-13-301, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD & TRANS, from ARM 2.43.426, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 1678, Eff. 8/26/11.)

Subchapter 49 reserved

Subchapter 50

Volunteer Firefighters' Compensation Act

2.43.5001 BASIC UNIT OF SERVICE (1) As of July 1, 1965, the basic unit of service for volunteer firefighters is one fiscal year. Volunteer firefighters not continuously on the active membership list of a single qualifying volunteer fire company for the entire fiscal year shall not be listed on the annual certificate and shall not receive credit for service under the Volunteer Firefighters' Compensation Act (VFCA) for that fiscal year. A volunteer fire company qualifies to participate in the VFCA if the requirements of 19-17-402, MCA, are met.

(2) A volunteer firefighter shall receive one year of credit for service under the VFCA for each two full fiscal years of service performed prior to July 1, 1965. (History: 19-17-203, MCA; IMP, 19-17-201, 19-17-401, 19-17-402, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, from ARM 2.43.801, 2008 MAR p. 2467, Eff. 12/1/08.)

2.43.5002 FAILURE TO FILE REQUIRED REPORTS (1) Annual certificates filed after the September 1 due date must be appealed to and considered by the board for approval. Information provided to the board by the fire chief or designated official must include:

- (a) the original, notarized annual certificate;
 - (b) certified training documents showing the required 30 hours of training per listed member, including the date, title, description, and hours of all applicable training classes, and the names of all members who attended the specific training classes;
 - (c) a letter from the fire chief explaining why the annual certificate was not filed timely; and
 - (d) a request for oral argument before the board if oral argument is desired.
- (History: 19-17-203, MCA; IMP, 19-17-108, 19-17-201, 19-17-402, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, from ARM 2.43.802, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 2261, Eff. 10/28/11.)

2.43.5003 MEMBERSHIP CARDS (1) Each member must complete a VFCA membership card upon commencing service as a volunteer firefighter, name change, change of statutory beneficiary, or change of fire company/district. (History: 19-17-203, MCA; IMP, 19-17-112, MCA; NEW, 2011 MAR p. 2261, Eff. 10/28/11.)

2.43.5004 EFFECTIVE DATE FOR PENSION BENEFIT ADJUSTMENTS

(1) By October 31 of each year the board shall determine whether the VFCA pension trust fund is actuarially sound and the amortization period for any unfunded liability remains at 20 years or less. As required by 19-17-404, MCA, the board shall then make pension adjustments for the next 12 months commencing with November benefits. (History: 19-17-203, MCA; IMP, 19-17-404, MCA; NEW, 2011 MAR p. 2261, Eff. 10/28/11.)

2.43.5005 APPLICATION PROCESS FOR VFCA DISABILITY BENEFITS

(1) All forms necessary to apply for disability benefits may be obtained from MPERA.

(2) The following forms must be completed and submitted to MPERA before the board will act on the application for disability benefits:

- (a) application for disability benefit and summary of disability;
- (b) VFCA duty questionnaire for disability retirement completed by the fire chief;
- (c) attending physician's statement, including all medical records required to substantiate a disability claim;
- (d) authorization to release information; and
- (e) a Health Insurance Portability and Accountability Act (HIPAA) authorization.

(3) The requesting party may provide additional medical information for consideration until 21 days prior to the next scheduled board meeting or, if different, the board meeting at which the request will be considered. (History: 19-17-203, MCA; IMP; 19-17-603, 19-17-604, 19-17-605, MCA; NEW, 2011 MAR p. 2261, Eff. 10/28/11.)

2.43.5006 APPLICATION FOR GROUP INSURANCE PREMIUM PAYMENTS (1) Each volunteer fire company, or organization or agency maintaining supplemental insurance for a fire company, is eligible for payments toward supplemental insurance coverage for active members of the fire company provided the company files each year:

- (a) by September 1 a roster for the current fiscal year; and
- (b) by December 31 proof of insurance and a completed MPERA-provided application form. (History: 19-17-203, MCA; IMP, 19-17-103, 19-17-108, 19-17-201, 19-17-205, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, from ARM 2.43.803, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 2261, Eff. 10/28/11.)

2.43.5007 PAYMENTS FOR MEDICAL EXPENSES RESULTING FROM DUTY-RELATED INJURIES AND ILLNESSES (1) Payments for medical expense claims made pursuant to Title 19, chapter 17, part 5, MCA, will be paid after:

- (a) the claim is properly filed as described in 19-17-502, MCA; and
- (b) all personal and/or group insurance payments for those services first have been deducted from the claim.

(2) Medical expense claims in excess of \$1,000 must be approved by the board prior to payment by MPERA.

(3) Subsequent insurance settlements in payment of medical expenses which have been previously paid by the board shall be reimbursed to the pension fund within 60 days of receipt by member or service provider. (History: 19-17-203, MCA; IMP, 19-17-504, 19-17-506, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, from ARM 2.43.804, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 2261, Eff. 10/28/11.)

2.43.5008 PAYMENTS FOR FUNERAL EXPENSES RESULTING FROM DUTY-RELATED DEATH (1) Payments for funeral expense claims made pursuant to Title 19, chapter 17, part 5, MCA, will be paid after:

- (a) the claim is properly filed as described in 19-17-503, MCA; and
- (b) all personal and/or group insurance payments for those services first have been deducted from the claim.

(2) Funeral expense claims in excess of \$1,000 must be approved by the board prior to payment by MPERA.

(3) Subsequent insurance settlements in payment of funeral expenses which have been previously paid by the board shall be reimbursed to the pension fund within 60 days of receipt by member or service provider. (History: 19-17-203, MCA; IMP, 19-17-505, 19-17-506, MCA; NEW, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2011 MAR p. 2261, Eff. 10/28/11.)

Subchapter 51

Deferred Compensation (457) Plan

2.43.5101 ADOPTION OF DEFERRED COMPENSATION PLAN DOCUMENT AND TRUST AGREEMENT (1) The board adopts and incorporates by reference the following:

(a) State of Montana Public Employee Deferred Compensation Plan Document (August 2015 edition), that was approved by the board on August 13, 2015, and describes the terms and conditions related to the operation and administration of the plan; and

(b) State of Montana Public Employee Deferred Compensation Plan Trust Agreement (January 1, 2002 edition), that was approved by the board on February 22, 2001, and September 28, 2001. The trust agreement sets the board's responsibilities as trustee of the deferred compensation plan and requires that the assets of the trust be used for the exclusive benefit of the plan participants and beneficiaries.

(2) Copies of the Deferred Compensation Plan Document, Trust Agreement, and related materials may be obtained from the MPERA, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, MT 59620-0131, phone 1 (877) 275-7372, e-mail mpera@mt.gov, and are available on MPERA's web site at www.mpera.mt.gov. (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 1893, Eff. 7/12/02; AMD, 2005 MAR p. 1908, Eff. 10/7/05; TRANS, from ARM 2.43.1801, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2009 MAR p. 81, Eff. 1/30/09; AMD, 2010 MAR p. 1725, Eff. 7/30/10; AMD, 2013 MAR p. 2234, Eff. 11/28/13; AMD, 2014 MAR p. 1999, Eff. 9/5/14; AMD, 2015 MAR p. 1891, Eff. 10/30/15.)

2.43.5102 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and incorporates by reference the State of Montana 457 Plan (deferred compensation) Investment Policy Statement approved by the board on June 11, 2015. The Investment Policy Statement provides investment guidelines for the 457(b) deferred compensation plan, a supplemental retirement-savings vehicle that permits participants to invest on either a pre-tax or a tax-deferred basis. The investment guidelines help the board to meet its fiduciary responsibilities to evaluate and positively influence the direction of the plan and its investments for the benefit of the plan participants and beneficiaries.

(2) The board adopts and incorporates by reference the State of Montana Stable Value Investment Guidelines Schedule approved by the board on December 29, 2009. These guidelines apply to the investment of 401(a) defined contribution plan participant assets and 457(b) deferred compensation plan participant assets that are pooled together in the plans' stable value group trust. The guidelines were developed through mutual agreement amongst the board, the investment manager, and the insurance wrap provider and provide guidance to the investment manager advisor when investing participants' funds contained within the stable value group trust.

(3) Copies of the 457 Plan Investment Policy Statement and Full Discretion Guidelines may be obtained from MPERA, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, MT 59620-0131, phone 1 (877) 275-7372, e-mail mpera@mt.gov. The documents are also available online at www.mpera.mt.gov. (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 1893, Eff. 7/12/02; AMD, 2004 MAR p. 1132, Eff. 5/7/04; AMD, 2005 MAR p. 1908, Eff. 10/7/05; AMD, 2007 MAR p. 677, Eff. 5/25/07; AMD & TRANS, from ARM 2.43.1802, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2009 MAR p. 1010, Eff. 6/26/09; AMD, 2010 MAR p. 1724, Eff. 7/30/10; AMD, 2010 MAR p. 2571, Eff. 10/29/10; AMD, 2011 MAR p. 2799, Eff. 12/23/11; AMD, 2013 MAR p. 1815, Eff. 10/18/13; AMD, 2015 MAR p. 1889, Eff. 10/30/15.)

2.43.5103 DEFERRED COMPENSATION PLAN INVESTMENT OPTIONS

(1) The board will choose, regularly review, and may discontinue, add, or change investment options offered to participants of the Deferred Compensation Plan. In doing so, the board will consider recommendations of the statutorily established Employee Investment Advisory Council and follow criteria established in the Plan's Investment Policy Statement.

(2) A Deferred Compensation Plan participant with assets in a discontinued investment option will be given notice and 90 days to move assets from the investment option being discontinued to an offered investment option. Assets remaining in a discontinued investment option at the end of the 90-day period will be automatically transferred to the investment option similar in investment category and style selected by the board to replace the discontinued investment option. If the discontinued investment option is not replaced, the board will transfer the fund balance to an age-appropriate target date fund offered by the Deferred Compensation Plan.

(3) Deferred Compensation Plan participants will be provided a minimum of 30 days notice if the board replaces or changes the stable value investment option manager. The stable value investment option assets will automatically transfer to the new manager(s). (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 1893, Eff. 7/12/02; AMD, 2004 MAR p. 1132, Eff. 5/7/04; AMD & TRANS, from ARM 2.43.1803, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2015 MAR p. 1894, Eff. 10/30/15.)

2.43.5104 ADOPTION OF STATE OF MONTANA PUBLIC EMPLOYEES

POOLED TRUST (1) The board adopts and incorporates by reference the Declaration of Trust – State of Montana Public Employees Pooled Trust approved by the board and effective on August 12, 2010.

(2) Copies of the State of Montana Public Employees Pooled Trust and related materials may be obtained from MPERA, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, MT 59620-0131, telephone 1 (877) 275-7372, or e-mail mpera@mt.gov, and are available on MPERA's web site at www.mpera.mt.gov. (History: 19-3-2104, 19-50-102, MCA; IMP, 19-3-2102, 19-50-102, MCA; NEW, 2010 MAR p. 1725, Eff. 7/30/10; AMD, 2010 MAR p. 2572, Eff. 10/29/10.)

Rules 2.43.5105 through 2.43.5108 reserved

2.43.5109 DEFINITIONS (1) Domestic Relations Order (DRO) is a draft document designed to divide a participant's 457 account pursuant to a domestic relations order.

(2) Qualified Domestic Relations Order (QDRO) is a domestic relations order that has been approved by the board. (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.5110 QUALIFIED DOMESTIC RELATIONS ORDERS – GENERAL REQUIREMENTS (1) The board will accept and implement QDROs in the Deferred Compensation (457) Plan sponsored by the State of Montana.

(2) Upon request, MPERA will provide to the public a checklist of required and optional provisions for QDROs.

(3) Information concerning a participant's account will only be released subject to the terms of ARM 2.43.1405.

(4) Upon receipt of a certified copy of a stay from the issuing court or the Montana Supreme Court, MPERA and the board will suspend further consideration or implementation of a Domestic Relations Order (DRO). Unless otherwise directed by court order, MPERA will not distribute the participant's 457 account pending resolution of the stay. MPERA will take further action only on receipt of a certified copy of an order directing such action. If the stay is lifted, MPERA will proceed with consideration, approval, and implementation procedures.

(5) A restraining order may be used to temporarily stop or prohibit payment to a participant. The order must contain the same information identifying the participant and alternate payee as required for a QDRO. If a DRO is not received before the order expires, payments will resume and any retained payments will be made to the participant.

(6) The board will not charge a fee for approving or implementing a QDRO. However, the board may charge a reasonable fee if a participant, an alternate payee, or any of their attorneys make excessive demands of MPERA staff to provide assistance in drafting a DRO which can be qualified.

(7) Any fees required by a third party administrator or record keeper for segregated accounts will be charged against the participant's account unless the QDRO states the fee should be deducted from amounts paid to the alternate payee.

(8) The alternate payee must promptly inform MPERA of any change of name or address prior to payment of their share of the participant's account. (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 2185, Eff. 8/16/02; AMD & TRANS, from ARM 2.43.1810, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.5111 QUALIFIED DOMESTIC RELATIONS ORDERS – CONTENTS

(1) A QDRO must contain the following information:

(a) the name, current mailing address, date of birth, and social security number of the participant;

(b) the name, current mailing address, date of birth, and social security number of the alternate payee;

(c) the amount or percentage of the participant's account, distribution, or payments to be paid by the Deferred Compensation (457) Plan to the alternate payee, or a description of how to calculate the amount or percentage;

(d) the number of payments or the period of time to which the order applies if the participant is receiving periodic or annuity payments; and

(e) if the participant receives lump sum payments in addition to periodic payments, the QDRO must specify a separate proportion or fixed amount to be applied to the lump sum payments. Otherwise the lump sum payments will not be divided.

(2) A QDRO must meet the following requirements:

(a) a QDRO must create or recognize the right of an alternate payee to all or a portion of a participant's account;

(b) a QDRO must relate to Title 40, MCA marital property rights, alimony, or child or other dependent support;

(c) the specified distribution or payment must be of a type or form permitted under the Deferred Compensation (457) Plan;

(d) the specified amount or duration of the payment to the alternate payee may not be greater than that available to the participant under the Deferred Compensation (457) Plan;

(e) the alternate payee may not be granted payment of any benefits that have already been awarded to another alternate payee under another order previously determined to be a QDRO; and

(f) the QDRO must contain a statement that the QDRO is subject to review and approval by the board. (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 2185, Eff. 8/16/02; AMD & TRANS, from ARM 2.43.1811, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.5112 QUALIFIED DOMESTIC RELATIONS ORDERS – APPROVAL AND IMPLEMENTATION

(1) A participant or alternate payee must submit a certified copy of a DRO to MPERA for board approval. The board may delegate authority for approval to the executive director.

(2) MPERA will notify the participant and the alternate payee when it receives a certified copy of a DRO. The notice will explain the procedures for determining if the DRO is qualified.

(3) While reviewing the DRO, MPERA will work with the recordkeeper to:

(a) prevent distributions from the participant's account, but allow the participant to manage the investments; and

(b) segregate the amounts, and earnings thereon, that will be owed to the alternate payee if the DRO is qualified.

(4) The segregated amount, with any earnings thereon, will be distributed to the participant if the DRO is not qualified within 18 months of the date it was received by MPERA and the participant is entitled to and requests distribution of the account.

(5) The information and requirements identified in ARM 2.43.5111 are considered the minimum the board needs to administer a QDRO. Domestic relations orders that do not contain the minimum information or address the minimum requirements are not QDROs and will be rejected by the board as not qualified. Rejected orders will be returned to the appropriate party with information on how to have the DRO qualified.

(6) Once the DRO is qualified, the board will:

(a) notify the participant and the alternate payee that the DRO is being implemented as a QDRO; and

(b) apply the QDRO prospectively if approved more than 18 months after the date it was first received by MPERA.

(7) The alternate payee may receive their payment only as a direct payment, a rollover, or a transfer.

(a) If the alternate payee is a participant or is eligible to participate in the state's Deferred Compensation (457) Plan and establishes an account, the alternate payee's distribution may be made to the alternate payee's 457 plan account.

(b) If the alternate payee is not eligible to participate in the state's Deferred Compensation (457) Plan, a 457 plan account cannot be established for the alternate payee. (History: 19-50-102, MCA; IMP, 19-50-102, MCA; NEW, 2002 MAR p. 2185, Eff. 8/16/02; AMD & TRANS, from ARM 2.43.1812, 2008 MAR p. 2467, Eff. 12/01/08.)